TITLE THREE. Miscellaneous Rules

DIVISION I. Rules for Censure, Removal, Retirement or Private Admonishment of Judges

Title Three, Miscellaneous Rules—Division I, Rules for Censure, Removal, Retirement or Private Admonishment of Judges; Division adopted effective August 1, 1961.

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Rule 936. Proceedings involving public or private admonishment, censure, removal or retirement of a judge of the Supreme Court

Rule 901. [Repealed 1996]

Rule 901 adopted effective November 11, 1966; amended effective November 13, 1976; and repealed effective December 1, 1996. The repealed rule related to interested party.

Note
Prior to its repeal, rule 901 read: "A judge who is a member of the Commission or of the Supreme Court may not participate as such in any proceedings involving his own censure, removal, retirement or private admonishment."

Former Rule
Former rule 901 was adopted effective August 1, 1961, and renumbered to be rule 904, effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 902. [Repealed 1996]

Rule 902 as adopted effective November 11, 1996; amended effective July 1, 1971, July 1, 1977, January 1, 1978, July 1, 1978, and July 1, 1985; repealed effective December 1, 1996.

Note
Prior to its repeal, rule 902 read: "(a) Except as provided in this rule, all papers filed with and proceedings before the Commission, or before the masters appointed by the Supreme Court pursuant to rule 907, shall be confidential until a record is filed by the Commission in the Supreme Court. Upon a recommendation of censure, all papers filed with and proceedings before the Commission or masters shall remain confidential until the judge who is the subject of the proceedings files a petition in the Supreme Court to modify or reject the Commission's recommendation or until the time for filing a petition expires.

"Information released by the Commission under this subdivision in proceedings resulting in a recommendation of censure shall make appropriate reference to a petition for review in the Supreme Court filed by the judge, if any is filed, to the end that the public will perceive that the Commission's recommendation and findings are wholly or partly contested by the judge.

"(b) The Commission may release information regarding its proceedings under the following circumstances:

"(1) If a judge is publicly charged with involvement in proceedings before the Commission resulting in substantial unfairness to him, the Commission may, at the request of the judge involved, issue a short statement of clarification and correction.

"(2) If a judge is publicly associated with having engaged in serious reprehensible conduct or having committed a major offense, and after a preliminary investigation or a formal hearing it is determined there is no basis for further proceedings or recommendation of discipline, the Commission may issue a short explanatory statement.

"(3) When a formal hearing has been ordered in a proceeding in which the subject matter is generally known to the public and in which there is broad public interest, and in which confidence in the administration of justice is threatened due to lack of information concerning the status of the proceeding and the requirements of due process, the Commission may issue one or more short announcements confirming the hearing, clarifying the procedural aspects, and defending the right of a judge to a fair hearing.

"(4) If a judge retires or resigns from judicial office following institution of formal proceedings, the Commission may, in the interest of justice or to maintain confidence in the administration of justice, release information concerning the investigation and proceedings to a public entity.

"(5) Upon completion of an investigation or proceeding, the Commission shall disclose to the person complaining against the judge that after an investigation of the charges the Commission (i) has found no basis for action against the judge, (ii) has taken an appropriate corrective action, the nature of which shall not be disclosed, or (iii) has filed a recommendation for the censure, removal, or retirement of the judge. The name of the judge shall not be used in any written communication to the complainant, unless the record has been filed in the Supreme Court."

Former Rule
Former rule 902 was adopted effective August 1, 1961, and renumbered rule 905, effective November 11, 1966.

Drafter's Notes
1985—In compliance with the suggestion of the Supreme Court in *Gubler* v. *Commission on Judicial Performance* (1984) 37 Cal.3d 27, the Judicial Council amended rule 902(a) to extend the period of confidentiality in censure cases pending before the Commission on Judicial Performance until the judge who is the subject of the proceedings has filed a petition for review in the Supreme Court or until the time to do so has expired. The council also amended rule 922(b) so that the rules governing the discipline of judges will apply equally to judges who elect to serve for an additional three years after retirement under a new senior status program.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 902.5. [Repealed 1982]

Adopted effective January 16, 1979; amended effective January 29, 1979; repealed effective July 1, 1982. The repealed rule related to modification of confidentiality requirement.

Rule 903. [Repealed 1996]

Rule 903 adopted effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to defamatory material.

Note
Prior to its repeal, rule 903 read: "The filing of papers with or the giving of testimony before the Commission, or before the masters appointed by the Supreme Court pursuant to rule 907, shall be privileged in any action for defamation. No other publication of such papers or proceedings shall be so privileged, except that the record filed by the Commission in the Supreme Court continues to be privileged."

Former Rule
Former rule 903 was adopted effective August 1, 1961, and renumbered rule 906, effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 903.5. [Repealed 1996]

Rule 903.5 adopted effective July 1, 1971; amended effective July 1, 1982; repealed effective December 1, 1996. The repealed rule related to response by judge, and medical examination.

Note
Prior to its repeal, rule 903.5 read: "A judge shall, within such reasonable time as the Commission may prescribe, respond to the merits of a letter from the Commission sent either before or during a preliminary investigation. A judge shall, upon showing of good cause found by two-thirds of the membership of the Commission and within such reasonable time as the Commission may prescribe, submit to a medical examination ordered by the Commission. The examination must be limited to the conditions stated in the showing for good cause. No examination by a specialist in psychiatry may be required without the consent of the judge."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904. [Repealed 1996]

Rule 904 adopted effective August 1, 1961, as rule 901; amended and renumbered effective November 11, 1966, and amended effective July 1, 1971, November 13, 1976, January 1, 1981, and January 1, 1989; repealed effective December 1, 1996. The repealed rule related to commencement of commission action.

Note

Prior to its repeal, rule 904 read: "(a) [Receipt of verified statement] Upon receiving a verified statement, alleging facts indicating that a judge is guilty of wilful misconduct in office, persistent failure or inability to perform the duties of office, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or that the judge has a disability that seriously interferes with the performance of the duties of office and is or is likely to become permanent, or that the judge has engaged in an improper action or a dereliction of duty, the commission shall

"(1) in an appropriate case, determine that the statement is obviously unfounded or frivolous and dismiss the proceeding;

"(2) if the statement is not obviously unfounded or frivolous, make a staff inquiry to determine whether sufficient facts exist to warrant a preliminary investigation; or

"(3) if sufficient facts are determined in the course of a staff inquiry or otherwise, make a preliminary investigation to determine whether formal proceedings should be instituted and a hearing held. (Subd (a) amended effective January 1, 1989; previously amended and relettered effective November 11, 1966; and previously amended effective November 13, 1976.)

"(b) [Investigation without verified statement] The commission without receiving a verified statement may make a staff inquiry or preliminary investigation on its own motion. [Source: subd (a).] (Subd (b) adopted and amended effective January 1, 1989.)

"(c) [Notification of disposition at the judge's request] Upon written request from a judge who is the subject of a proceeding before the commission, the commission shall notify the judge in writing of the disposition of the proceeding if

"(1) the judge's request to the commission specifically describes the underlying incident giving rise to the proceeding;

"(2) the pendency of the proceeding has become generally known to the public; or

"(3) the judge has received written notice of the proceeding from someone who is not associated with the commission. (Subd (c) adopted effective January 1, 1989.)"

Former Rule

Former rule 904 was adopted effective August 1, 1961, and amended and renumbered rule 907, effective November 11, 1966.

Drafter's Notes
1980—The 1980 amendments give a judge on whom the Commission on Judicial Performance intends to impose a private admonishment the right either to an appearance before the Commission or to a formal hearing under rule 905 before the admonishment is imposed. If the judge claims either option, the Commission may conduct further preliminary investigation and may institute formal proceedings, but it may not, in lieu of the private admonishment, recommend the censure, retirement or removal of the judge unless substantial and serious new facts to justify such a recommendation are proved in the formal proceedings.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.1. [Repealed 1996]

Rule 904.2 adopted effective January 1, 1989; repealed effective December 1, 1996. The repealed rule related to advisory letter after staff inquiry.

Note
Prior to its repeal, rule 904.1 read: "At any time during the course of a staff inquiry, the commission may determine that a judge's conduct does not constitute a basis for further proceedings and may terminate the inquiry by issuing a confidential advisory letter to the judge. Before the commission issues an advisory letter, the judge shall be notified of the inquiry, the nature of the charge, and the name of the person making the verified statement or, if none, that the inquiry is on the commission's own motion. The judge shall be afforded a reasonable opportunity in the course of the inquiry to present such matters as the judge may choose. A reasonable time for a judge to respond to an inquiry letter shall be 20 days from the date the letter was mailed to the judge unless the time is extended for good cause shown.

"If the staff inquiry does not disclose sufficient cause to warrant issuance of a confidential advisory letter or further proceedings, the commission shall terminate the staff inquiry and notify the judge in writing."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.2. [Repealed 1996]

Rule 904.2 adopted effective January 1, 1989; repealed effective December 1, 1996. The repealed rule related to preliminary investigation.

Note
Prior to its repeal, rule 904.2 read: "(a) [Notice] If the commission commences a preliminary investigation, the judge shall be notified of the investigation, the nature of the charge, and the

name of the person making the verified statement or, if none, that the investigation is on the commission's own motion, and shall be afforded a reasonable opportunity in the course of the preliminary investigation to present such matters as the judge may choose. [Source: rule 904(b).]

"(b) [Termination of investigation] If the preliminary investigation does not disclose sufficient cause to warrant further proceedings, the commission shall terminate the investigation and notify the judge. [Source: rule 904(c).]

"(c) [Advisory letter] At any time after notice of a preliminary investigation and a reasonable opportunity to respond has been given to the judge, the commission may determine that the judge's conduct does not constitute a basis for further proceedings and may terminate the investigation by issuing a confidential advisory letter to the judge.

"(d) [Observation and review] The commission may defer termination of the investigation for a period not to exceed two years for observation and review of a judge's conduct."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.3. [Repealed 1996]

Rule 904.3 adopted effective January 1, 1989; repealed effective December 1, 1996. The repealed rule related to private admonishment.

Note
Prior to its repeal, rule 904.3 read: "If the preliminary investigation discloses good cause, the commission may issue a notice of intended private admonishment to the judge by certified or registered mail. The notice shall include a statement of facts found by the commission and the reasons for the proposed admonishment. The notice shall also contain advice as to the judge's right to an appearance before the commission to object to the private admonishment and, if the commission does not withdraw its intention to admonish the judge privately after an appearance, the requirement of a hearing under the provisions governing initiation of formal proceedings. [Source: rule 904(d).]"

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.4. [Repealed 1996]

Rule 904.4 adopted effective January 1, 1989; amended effective January 1, 1990; repealed effective December 1, 1996. The repealed rule related to notice requirements.

Note
Prior to its repeal, rule 904.4 read: "All notices of a staff inquiry, preliminary investigation, or intended private admonishment shall be addressed to the judge at the judge's last known residence, or, if that address is not easily ascertainable by the commission, to the judge at chambers or at any other address the judge may designate. If the notice relates to a staff inquiry, the notice shall be given by first-class mail. If the notice relates to a preliminary investigation or intended private admonishment, the notice shall be given by prepaid certified mail return receipt requested."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.5. [Repealed 1996]

Rule 904.5 adopted effective November 13, 1976; amended effective January 1, 1981, and January 1, 1989; repealed effective December 1, 1996. The repealed rule related to demand for appearance after notice of private admonishment.

Note
Prior to its repeal, rule 904.5 read: "(a) [Judge's demand for appearance] Within 15 days after mailing of a notice of an intended private admonishment, the judge may file with the commission a written demand for an appearance before the commission to object to the intended private admonishment. (Subd (a) amended effective January 1, 1989; previously amended effective January 1, 1981.)

"(b) [Commission action after appearance] After the appearance, the commission may

"(1) withdraw the private admonishment and terminate the proceeding, with or without an advisory letter; or

"(2) advise the judge that the commission has rejected the objections to the intended admonishment and that the judge may either withdraw opposition and accept the private admonishment or continue opposition and request a formal hearing, with or without further preliminary investigation; or

"(3) make further preliminary investigation; or

"(4) institute formal proceedings. (Subd (b) adopted effective January 1, 1989.)"

Drafter's Notes
See note following rule 904.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 904.6. [Repealed 1996]

Rule 904.6 adopted effective January 1, 1989; repealed effective December 1, 1996. The repealed rule related to use and retention of commission records.

Note
Prior to its repeal, rule 904.6 read: "(a) [Use of records outside the limitation period] Commission records of complaints against a judge shall not be used for any purpose if the complaints (1) relate to actions occurring more than six years prior to the commencement of the judge's current term and (2) did not result in issuance of an advisory letter, private admonishment, censure, or removal of the judge.

"(b) [Records disposition program] The commission shall adopt a records disposition program designed to dispose of those records which cannot be used for any purpose under this rule or which are no longer necessary for the performance of its duties."

Drafter's Notes
1988—The council adopted rule changes in rules 904.6, 909, and 920 that

(a) provide for the use of commission records and a records retention program in conformity with the statute of limitations contained in the constitution (rule 904.6);

(b) provide for the use of the California Evidence Code in commission proceedings (rule 909(a));

(c) amend the procedures for petitions for review of private admonishment to correct several technical defects (rule 920).

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 905. [Repealed 1996]

Rule 905 adopted effective August 1, 1961; rule 902 previously renumbered effective November 11, 1966; amended effective July 1, 1971, and January 1, 1980; repealed effective December 1, 1996. The repealed rule related to notice of formal proceedings.

Note
Prior to its repeal, rule 905 read: "(a) After the preliminary investigation has been completed, if the Commission concludes that formal proceedings should be instituted, the Commission shall without delay issue a written notice to the judge advising him of the institution of formal proceedings to inquire into the charges against him. Such proceedings shall be entitled:

"'Before the Commission on Judicial Performance"
"Inquiry Concerning a Judge, No. ___"

"(b) The notice shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which such charges are based, and shall advise the judge of his right to file a written answer to the charges against him within 15 days after service of the notice upon him.

"(c) The notice shall be served by the personal service of a copy thereof upon the judge, but if it appears to the chairman of the Commission upon affidavit that, after reasonable effort for a period of 10 days, personal service could not be had, service may be made upon the judge by mailing, by prepaid certified or registered mail, copies of the notice addressed to the judge at his chambers and at his last known residence."

Former Rule
Former Rule 905 was adopted effective August 1, 1961, and renumbered rule 908 effective November 11, 1966.

Drafter's Notes
1980—Rule 905(a) is amended to correct the name of the Commission on Judicial Performance.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 906. [Repealed 1996]

Rule 906 adopted effective August 1, 1961; amended effective July 1, 1971; rule 903 previously renumbered effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to answer.

Note
Prior to its repeal, rule 906 read: "Within 15 days after service of the notice of formal proceedings the judge may file with the Commission an original and 11 legible copies of an answer, which shall be verified and shall conform in style to subdivision (c) of rule 15 of the Rules on Appeal. The notice of formal proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings."

Former Rule
Former rule 906 was adopted effective August 1, 1961, and renumbered rule 909 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 907. [Repealed 1996]

Rule 907 adopted effective August 1, 1961; rule 904 renumbered and amended effective November 11, 1966; amended effective July 1, 1971, November 13, 1976, and July 1, 1984; repealed effective December 1, 1996. The repealed rule related to setting for hearing before Commission or masters.

Note

Prior to its repeal, rule 907 read: "On filing or on expiration of the time for filing an answer, the Commission shall order a hearing to be held before it concerning the censure, removal, retirement or private admonishment of the judge. In place of or in addition to a hearing before the Commission, the Commission may request the Supreme Court to appoint three special masters to hear and take evidence in the matter, and to report to the Commission. On a vote of two-thirds of the members of the Commission and with the consent of the judge involved, the Commission may request the Supreme Court to appoint one special master in place of three special masters. Consent of the judge shall be defined as (i) written agreement by the judge or counsel of record, or (ii) failure to object in writing within 30 days of notice of intention to request the appointment of one special master.

"Special masters shall be judges of courts of record. When there are three special masters, not more than two of them may be retired judges from courts of record. The Commission shall set a time and place for hearing before itself or before the masters and shall give notice of the hearing by mail to the judge at least 20 days before the hearing."

Former Rule

Former rule 907 was adopted effective August 1, 1961, and renumbered rule 910 effective November 11, 1966.

Drafter's Notes

1984—The Judicial Council adopted a joint proposal of the Commission on Judicial Performance and the California Judges Association to make several technical amendments to the rules governing proceedings before the commission. Amended rule 907 provides that a judge consents to a hearing before one special master by failure to object within 30 days of notice of the intent to appoint one master. Rule 909(a), as amended, permits the examiner and the judge to stipulate to an agreed statement in place of all or part of the testimony. An amendment to rule 912(d) requires the masters to obtain the consent of the commission before ordering a transcript necessary to the preparation of their report. Rules 918 and 920 were amended to delete the requirement that a transcript of commission proceedings be prepared in cases where the judge is privately admonished unless a petition for review is filed or the judge requests a transcript.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 907.1. [Repealed 1996]

Rule 907.1 adopted effective January 1, 1990; repealed effective December 1, 1996. The repealed rule related to judge's request for open hearing.

Note
Prior to its repeal, rule 907.1 read: "With the answer or, if no answer is filed, before expiration of the time for filing an answer, the judge may file with the commission a written request that the formal hearing be open to the public. The commission shall review and consider the written request, and shall order that an open hearing be held unless the commission by vote finds good cause for a confidential hearing. The commission shall notify the judge by mail of its action on the judge's request for an open hearing within 60 days after the request is filed."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 907.2. [Repealed 1996]

Rule 907.2 adopted effective January 1, 1990; repealed effective December 1, 1996. The repealed rule related to commission order for open hearing.

Note
Prior to its repeal, rule 907.2 read: "(a) [Notice to the judge and examiners of preliminary determination that charges may meet constitutional criteria] If the judge has not requested an open hearing in accordance with these rules, the commission shall determine whether the proceeding may meet the constitutional criteria for opening hearings to the public. If the commission makes the preliminary determination that the proceeding may meet the constitutional criteria, then it shall notify the judge and the examiner of its determination within 30 days after the filing of the answer or, if none is filed, within 30 days after expiration of the time for filing an answer. The notice shall advise the judge and the examiner of the right to submit written arguments on whether any of the charges involves moral turpitude, dishonesty, or corruption, and on whether opening the hearing would be in the pursuit of public confidence, and in the interests of justice. The arguments shall be submitted to the commission and served on the opposing party within 30 days after mailing the notice.

"(b) [Commission determination on the nature of the charges] After considering the written arguments submitted, the commission shall determine whether any charge in the notice of formal proceedings involves moral turpitude, dishonesty, or corruption.

"(c) [Commission determination on opening the hearing] If the commission finds that no charge in the notice of formal proceedings involves moral turpitude, dishonesty, or corruption, the commission shall order that the hearing remain confidential.

"If the commission finds that any charge in the notice of formal proceedings involves moral turpitude, dishonesty, or corruption, the commission shall proceed to a determination of whether opening the formal hearing would be (1) in the pursuit of public confidence, and (2) in the interests of justice.

"The commission shall not order that a formal hearing be open to the public unless the commission finds that opening the hearing would be both in the pursuit of public confidence and in the interests of justice.

"(d) [Notice to the judge and the examiner of the commission's determination on opening the hearing] The commission shall mail to the judge and the examiner copies of its order that the hearing be open or confidential within 30 days after the last date for submission of written arguments under these rules."

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 907.5. [Repealed 1996]

Rule 907.5 adopted effective January 1, 1989; repealed effective December 1, 1996. The repealed rule related to discovery procedures.

Note
Prior to its repeal, rule 907.5 read: "(a) [Exclusive procedures] The procedures in this rule shall constitute the exclusive procedures for discovery. Discovery may be obtained only after a written notice of formal proceedings is issued.

"(b) [Applicability to both parties] The examiners and the judge are each entitled to discovery from the other in accordance with these procedures.

"(c) [Discovery requests] All requests for discovery, except a request to take the deposition of a witness to be called at the hearing, must be made in writing to the opposing side within 30 days after service of the answer to the written notice of formal proceedings or within 30 days after service of the written notice of formal proceedings if no answer has yet been filed, or within 15 days after service of any amendment to the notice.

"(d) [Inspection and copying] The following items may be inspected or copied by the side requesting discovery:

"(1) the names, and if known, the business addresses and business telephone numbers of persons the opposing side then intends to call as witnesses at the hearing;

"(2) the names, and if known, the business addresses and business telephone numbers of those persons who may be able to provide substantial material information favorable to the judge. Substantial material information favorable to the judge is evidence bearing directly on the truth of the charges or relevant to the credibility of a witness intended to be called;

"(3) all statements about the subject matter of the proceedings, including any impeaching evidence, made by any witness then intended to be called by either side;

"(4) all statements about the subject matter of the proceedings made by a person named or described in the notice, or amendment to the notice, other than the judge when it is claimed that an act or omission of the judge as to the person described is a basis for the formal proceeding;

"(5) all investigative reports made by or on behalf of the commission, the examiners, or the judge, about the subject matter of the proceeding;

"(6) all writings, including reports of mental, physical, and blood examinations, then intended to be offered in evidence by the opposing side;

"(7) all physical items of evidence then intended to be offered in evidence;

"(8) all writings or physical items of evidence which would be admissible in evidence at the hearing.

"(e) [Compliance with request] If either side receives a written request for discovery in accordance with these procedures, the side receiving the request shall have a continuing duty to provide discovery of items listed in the request until proceedings before the masters are concluded. When a written request for discovery is made in accordance with these rules, discovery shall be provided within a reasonable time after any discoverable items become known to the side obligated to provide discovery.

"(f) [Depositions] After initiation of formal charges against the judge, the commission or the masters shall order the taking of the deposition of any person upon a showing by the side requesting the deposition that the proposed deponent is a material witness who is unable or cannot be compelled to attend the hearing. If a deposition is ordered, the procedures stated in Government Code section 68753 shall be followed. The side requesting the deposition shall bear all costs of the deposition.

"(g) [Failure to comply with discovery request] If any party fails to comply with a discovery request as authorized by these procedures, the items withheld shall be suppressed or, if the items have been admitted into evidence, shall be stricken from the record. If testimony is elicited during direct examination and the side eliciting the testimony withheld any statement of the testifying witness in violation of these discovery procedures, the testimony shall be ordered stricken from the record. Upon a showing of good cause for failure to comply with a discovery request, the masters may admit the items withheld or direct examination testimony of a witness whose statement was withheld upon condition that the side against whom the evidence is sought to be admitted is granted a reasonable continuance to prepare against the evidence, or may order the items or testimony suppressed or stricken from the record. The commission may, upon review of any hearing, order any evidence stricken from the record for violation of a valid discovery request if the evidence could have been ordered stricken by the masters for violation of a valid discovery request.

"(h) [Applicable privileges] Nothing in these procedures shall authorize the discovery of any writing or thing which is privileged from disclosure by law or is otherwise protected or made confidential as the work product of the attorney. Statements of any witness interviewed by the

examiners, by any investigators for either side, by the judge, or by the judge's attorney shall not be protected as work product.

"(i) [Definition of statement] For purposes of these procedures, "statement" shall mean either (1) a written statement prepared by or at the direction of the declarant or signed by the declarant, or (2) an oral statement of the declarant which has been recorded stenographically, mechanically, or electronically, or which has been videotaped, transcribed, or summarized in writing."

Drafter's Notes
1988—The council adopted new rules (907.5, 915) governing discovery in commission proceedings which

(a) generally track the language of all but two of the existing commission policy statements on discovery (rule 907.5);

(b) provide under limited circumstances for disclosure of information favorable to the judge (rule 907.5);

(c) provide for depositions, in a manner similar to the rule in other administrative proceedings, when a material witness is unable or cannot be compelled to attend the hearing (rule 907.5);

(d) permit a continuance for good cause to conduct reasonable discovery (rule 915).

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 908. [Repealed 1996]

Rule 908 adopted effective August 1, 1961; amended effective November 13, 1976, and July 1, 1982; rule 905 previously renumbered and amended effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to hearing.

Note
Prior to its repeal, rule 908 read: "(a) At the time and place set for hearing, the Commission, or the masters when the hearing is before masters, shall proceed with the hearing whether or not the judge has filed an answer or appears at the hearing. The examiner shall present the case in support of the charges in the notice of formal proceedings.

"(b) The failure of the judge to answer or to appear at the hearing shall not, standing alone, be taken as evidence of the truth of the facts alleged to constitute grounds for censure, removal, retirement or private admonishment. In accordance with Evidence Code section 913, no inference shall be drawn from the exercise of the privilege not to respond to questions on grounds of self-incrimination or the exercise of any other Evidence Code privilege, or of any other recognized privilege, as to any matter in issue or to the credibility of the judge. In accordance with Evidence Code section 413, in reviewing the evidence and facts in the case against the judge, the Commission may consider the judge's failure to explain or deny evidence or facts in the case or

any willful suppression of evidence if that is the case, unless the failure or suppression is due to the judge's exercise of any legally recognized privilege.

"(c) The proceedings at the hearing shall be reported by a phonographic reporter.

"(d) When the hearing is before the Commission, not less than five members shall be present when the evidence is produced."

Former Rule
Former rule 908 was adopted effective August 1, 1961, and renumbered rule 911 effective November 11, 1966.

Drafter's Notes
1982—Rule 908(b) was amended to conform to Evidence Code sections 413 and 913 by permitting consideration of suppression of evidence of failure to explain or deny evidence unless based on the exercise of a recognized privilege. The amended rule deletes the concept of circumstances beyond the judge's control as a justification for the failure to explain or deny facts or for the suppression of evidence.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 909. [Repealed 1996]

Rule 909 adopted effective August 1, 1961; amended effective November 13, 1976, July 1, 1984, and January 1, 1989; rule 906 previously renumbered effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to evidence.

Note
Prior to its repeal, rule 909 read: "(a) [Applicable law and agreed statement] The California Evidence Code shall be applicable to all hearings before the commission or masters. Oral evidence shall be taken only on oath or affirmation. The examiner or the judge may propose to the other party an agreed statement in place of all or a part of the testimony. An agreed statement shall not foreclose argument to the commission or masters. (Subd (a) as amended effective January 1, 1989; previously relettered effective November 11, 1966, November 13, 1976; previously amended effective July 1, 1984.)

"(b) [Prior disciplinary action] Any prior disciplinary action may be received in evidence to prove that conduct is persistent or habitual or to determine what action should be taken or recommendation made following the finding of facts constituting grounds for private admonishment, censure, removal or retirement."

Former Rule
Former rule 909 was adopted effective August 1, 1961, and renumbered rule 912 effective November 11, 1966.

Drafter's Notes
1984—See note following rule 907.

1988—See note following rule 904.6.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 910. [Repealed 1996]

Rule 910 adopted effective August 1, 1961; amended effective November 13, 1976; rule 907 previously renumbered and amended effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to procedural rights of judge.

Note
Prior to its repeal, rule 910 read: "(a) In formal proceedings involving his censure, removal, retirement or private admonishment, a judge shall have the right and reasonable opportunity to defend against the charges by the introduction of evidence, to be represented by counsel, and to examine and cross-examine witnesses. He shall also have the right to the issuance of subpoenas for attendance of witnesses to testify or produce books, papers, and other evidentiary matter.

"(b) When a transcript of the testimony has been prepared at the expense of the Commission, a copy thereof shall, upon request, be available for use by the judge and his counsel in connection with the proceedings, or the judge may arrange to procure a copy at his expense. The judge shall have the right, without any order or approval, to have all or any portion of the testimony in the proceedings transcribed at his expense.

"(c) Except as herein otherwise provided, whenever these rules provide for giving notice or sending any matter to the judge, such notice or matter shall be sent to the judge at his residence unless he requests otherwise, and a copy thereof shall be mailed to his counsel of record.

"(d) If the judge is adjudged insane or incompetent, or if it appears to the Commission at any time during the proceedings that he is not competent to act for himself, the Commission shall appoint a guardian ad litem unless the judge has a guardian who will represent him. In the appointment of such guardian ad litem, preference shall be given, whenever possible, to members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge with the same force and effect as if claimed, exercised, or made by the judge, if competent, and whenever these rules provide for serving or giving notice or sending any matter to the judge, such notice or matter shall be served, given, or sent to the guardian or guardian ad litem."

Former Rule
Former rule 910 was adopted effective August 1, 1961, and amended and renumbered rule 913 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 911. [Repealed 1996]

Rule 908 adopted effective August 1, 1961; renumbered Rule 911 effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to amendments to notice or answer.

Note
Prior to its repeal, rule 911 read: "The masters, at any time prior to the conclusion of the hearing, or the Commission, at any time prior to its determination, may allow or require amendments to the notice of formal proceedings and may allow amendments to the answer. The notice may be amended to conform to proof or to set forth additional facts, whether occurring before or after the commencement of the hearing. In case such an amendment is made, the judge shall be given reasonable time both to answer the amendment and to prepare and present his defense against the matters charged thereby."

Former Rule
Former rule 911 was adopted effective August 1, 1961, and renumbered rule 914 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 912. [Repealed 1996]

Rule 912 adopted effective August 1, 1961; amended effective July 1, 1971, July 1, 1976, November 13, 1976, July 1, 1982, July 1, 1984, and January 1, 1990; rule 909 previously renumbered and amended effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to report of masters.

Note
Prior to its repeal, rule 912 read: "(a) [Proposed report] Within 20 days after the conclusion of the hearings before masters, they shall prepare and transmit to the parties a proposed report which shall contain a brief statement of the proceedings had and their findings of fact and conclusions of law with respect to the issues presented by the notice of formal proceedings and the answer thereto, or if there be no answer, their findings of fact and conclusions of law with respect to the allegations in the notice of formal proceedings. The proposed report may also contain an analysis of the evidence and reasons for the findings or conclusions.

"(b) [Statement of objections] Within 15 days after mailing the copy of the proposed masters' report, the examiner or the judge may file with the masters four legible copies of a statement of objections to the proposed report. The objections and grounds shall be specific and shall be supported by reference to the book and page number of the transcript of the proceeding and by citation of authorities. (Subd (b) as amended effective January 1, 1990; adopted effective July 1, 1982.)

"(c) [Amending the report] Following receipt of any objections, the masters may amend the proposed report in any manner warranted by the record and applicable rules of law and transmit within 10 days their report to the Commission. In the absence of objections, their report shall be transmitted to the Commission at the expiration of the time for filing objections.

"(d) [Transcript] When the findings and conclusions support the grounds alleged for censure, removal, retirement or private admonishment, the report shall be accompanied by an original and four copies of a transcript of the proceedings before the masters. In other cases, if a transcript is needed to prepare the report, a majority of the masters may, with the consent of the Commission, order the transcript prepared at the expense of the Commission.

"(e) [Copy of report to judge] Upon receiving the report of the masters, the Commission shall promptly mail a copy to the judge."

Former Rule
Former rule 912 was adopted effective August 1, 1961, and renumbered rule 915 effective November 11, 1966.

Drafter's Notes
1982—Rules 912 and 913 were amended to permit the parties to a commission proceeding conducted before masters to object to and seek amendment of the masters' report within a specified time and in conformance with certain requirements.

1984—See note following rule 907.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 913. [Repealed 1996]

Rule 913 adopted effective August 1, 1961; amended effective November 13, 1976, July 1, 1982, and January 1, 1990; rule 910 previously renumbered and amended effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to objections to report of masters.

Note
Prior to its repeal, rule 913 read: "Within 15 days after mailing of the copy of the masters' report to the judge, the examiner or the judge may file with the commission an original and 15 legible copies of a statement of objections to the report of the masters. The objections and grounds shall be specific and shall be supported by reference to the book and page number of the transcript and

all reasons in opposition to the findings as sufficient grounds for censure, removal, retirement, or private admonishment. The statement shall conform in style to subdivision (c) of rule 15 and, when filed by the examiner, a copy shall be sent by first-class mail to the judge."

Former Rule
Former rule 913 was adopted effective August 1, 1961, and amended and renumbered rule 916 effective November 11, 1966.

Drafter's Notes
1982—See note following rule 912.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 914. [Repealed 1996]

Rule 911 adopted effective August 1, 1961; renumbered rule 914 effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to appearance before commission.

Note
Prior to its repeal, rule 914 read: "If no statement of objections to the report of the masters is filed within the time provided, the Commission may adopt the findings of the masters without a hearing. If such statement is filed, or if the Commission in the absence of such statement proposes to modify or reject the findings of the masters, the Commission shall give the judge and the examiner an opportunity to be heard orally before the Commission, and written notice of the time and place of such hearing shall be mailed to the judge at least 10 days prior thereto."

Former Rule
Former rule 914 was adopted effective August 1, 1961, and amended and renumbered rule 917 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 915. [Repealed 1996]

Rule 915 adopted effective August 1, 1961; previously amended effective July 1, 1971, and January 1, 1989; rule 912 previously renumbered effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to extension of time.

Note
Prior to its repeal, rule 915 read: "(a) [In general] The chairperson of the commission may extend for a period not to exceed 30 days, except for good cause, the time for each of the following: filing of an answer, commencing a hearing before the commission, transmitting the masters' proposed report to the parties, for filing with the masters a statement of objections to the proposed report of the masters, transmitting the masters' report to the commission, and filing with the commission a statement of objections to the report of the masters. The presiding master may similarly extend the time for commencing a hearing before masters. (Subd (a) as amended effective January 1, 1989; previously amended effective July 1, 1971, January 1, 1983; renumbered effective November 11, 1966.)

"(b) [To obtain reasonable discovery] The chairperson of the commission or the presiding master may extend the time for commencing the hearing upon a showing of good cause to permit either party to obtain reasonable discovery as provided in these rules. (Subd (b) adopted effective January 1, 1989.)"

Former Rule
Former rule 915 was adopted effective August 1, 1961, and amended and renumbered rule 918 effective November 11, 1966.

Drafter's Notes
1983—At the suggestion of the Commission on Judicial Performance, the Judicial Council amended rule 915 governing extensions of time to include certain procedural steps in commission proceedings conducted before special masters. Under the amended rule, the times for submission of or objection to reports of the masters to the commission may be extended for a period not to exceed 30 days, except for good cause.

1988—See note following rule 907.5.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 916. [Repealed 1996]

Rule 916 adopted, effective August 1, 1961; amended and renumbered effective November 11, 1966; repealed effective December 1, 1996. The repealed rule related to hearing additional evidence.

Note
Prior to its repeal, rule 916 read: "(a) The Commission may order a hearing for the taking of additional evidence at any time while the matter is pending before it. The order shall set the time and place of hearing and shall indicate the matters on which the evidence is to be taken. A copy of such order shall be sent by mail to the judge at least 10 days prior to the date of hearing.

"(b) In any case in which masters have been appointed, the hearing of additional evidence shall be before such masters, and the proceeding therein shall be in conformance with the provisions of rules 908 to 914, inclusive."

Former Rule
Former rule 916 was adopted effective August 1, 1961, and amended and renumbered rule 919 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 917. [Repealed 1996]

Rule 917 adopted effective August 1, 1961; renumbered and amended effective November 11, 1966; amended effective November 13, 1976; repealed effective December 1, 1996. The repealed rule related to commission vote.

Note
Prior to its repeal, rule 917 read: "If the Commission finds good cause, it shall privately admonish the judge or recommend to the Supreme Court the censure, removal or retirement of the judge. The affirmative vote of five members of the Commission who have considered the record and report of the masters and who were present at any oral hearing as provided in rule 914, or, when the hearing was before the Commission without masters, of five members of the Commission who have considered the record, and at least three of whom were present when the evidence was produced, is required for a private admonishment or a recommendation of censure, removal or retirement of a judge or for dismissal of the proceedings."

Former Rule
Former rule 917 was adopted effective August 1, 1961, and amended and renumbered rule 920 effective November 11, 1966.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 918. [Repealed 1996]

Rule 918 adopted effective August 1, 1961; amended and renumbered effective November 11, 1966; amended effective November 13, 1976, July 1, 1984, and January 1, 1990; repealed effective December 1, 1996. The repealed rule related to record of commission proceedings.

Notes
Prior to its repeal, rule 918 read: "The commission shall keep a record of all proceedings concerning a judge. The commission's determination shall be entered in the record and notice of the determination shall be mailed to the judge. In all formal proceedings, the commission shall prepare a transcript of the testimony and of all proceedings and shall make written findings of fact and conclusions of law."

Former Rule
Former rule 918 was adopted effective August 1, 1961, and amended and renumbered rule 921 effective November 11, 1966.

Drafter's Notes
1984—See note following rule 907.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 919. [Repealed 1996]

Rule 919 adopted effective August 1, 1961; previously amended effective November 11, 1966, July 1, 1976, and November 13, 1976; repealed effective December 1, 1996. The repealed rule related to certification and review of commission recommendation.

Note
Prior to its repeal, rule 919 read: "(a) Upon making a determination recommending the censure, removal or retirement of a judge, the Commission shall promptly file a copy of the recommendation certified by the chairman or secretary of the Commission, together with the transcript and the findings and conclusions, with the clerk of the Supreme Court and shall immediately mail the judge notice of the filing, together with a copy of the recommendation, findings, and conclusions. (Subd (a) as amended effective November 13, 1976; previously amended effective November 11, 1966.)

"(b) A petition to the Supreme Court to modify or reject the recommendation of the Commission for censure, removal or retirement of a judge may be filed within 30 days after the filing with the clerk of the Supreme Court of a certified copy of the recommendation complained of. The petition shall be verified, shall be based on the record, shall specify the grounds relied on and shall be accompanied by petitioner's brief and proof of service of three copies of the petition and of the brief on the Commission. Within 45 days after the petition is filed, the Commission shall serve and file a respondent's brief. Within 15 days after service of such brief the petitioner may file a reply brief, of which three copies shall be served on the Commission. (Rule 919(b) renumbered effective November 13, 1976; previously amended effective July 1, 1976; amended and renumbered to be rule 920(a) effective November 11, 1966; adopted, effective August 1, 1961, as rule 917(a).)

"(c) Failure to file a petition within the time provided may be deemed a consent to a determination on the merits based upon the record filed by the Commission. (Rule 919(c) renumbered effective

November 13, 1976; previously amended and renumbered to be rule 920(b) effective November 11, 1966; adopted, effective August 1, 1961, as rule 917(b).)

"(d) The rules adopted by the Judicial Council governing appeals from the superior court in civil cases, other than rule 26 relating to costs, shall apply to proceedings in the Supreme Court for review of a recommendation of the Commission except where express provision is made to the contrary or where the application of a particular rule would be clearly impracticable, inappropriate, or inconsistent. (Rule 919(d) amended and renumbered effective November 13, 1976; previously amended and renumbered to be rule 920(c) effective November 11, 1966; adopted, effective August 1, 1961, as rule 917(c).)"

Former Rule
Former rule 919 was adopted effective August 1, 1961, and repealed effective July 1, 1963.

Drafter's Notes
1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 920. [Repealed 1996]

Rule 920 adopted effective November 13, 1976; amended effective January 1, 1989, and July 1, 1984; repealed effective December 1, 1996. The repealed rule related to review of commission proceeding resulting in private admonishment.

Note
Prior to its repeal, rule 920 read: "(a) [Mailing of notice of entry] Upon making a determination to privately admonish a judge following a hearing, the commission shall enter the private admonishment in its records and shall immediately mail to the judge (1) a copy of the admonishment, (2) a copy of a notice stating that an admonishment has been entered in the records of the commission, and reciting the date of its entry and the date of mailing of the notice, and (3) a copy of the findings and conclusions. (Subd (a) as amended effective January 1, 1989.)

"(b) [Petition for review] A judge seeking review of the commission's action shall serve and file a petition for review in the Supreme Court within 30 days after mailing of the notice of entry of the private admonishment in the records of the commission. The petition shall be verified and include proof of the delivery or mailing of three copies of the petition to the commission. Within 20 days after the filing of the petition the commission shall transmit to the Clerk of the Supreme Court the original record, including a transcript of the testimony, briefs, and all original papers and exhibits on file in the proceeding. If the petition is denied, the Clerk of the Supreme Court shall return the transmitted materials to the commission. (Subd (b) as amended and relettered effective January 1, 1989; adopted, effective November 13, 1976, as subd (c); previously amended effective July 1, 1984.)

"(c) [Answer to petition] The commission may serve and file an answer within 30 days after the filing of the petition. (Subd (c) as amended and relettered effective January 1, 1989; adopted, effective November 13, 1976, as subd (d); previously amended effective July 1, 1984.)

"(d) [Contents of petition and answer] Except as provided in these rules, the petition and answer shall, insofar as practicable, conform to rules 15 and 28. Each copy of the petition shall contain (1) a copy of the admonishment, (2) a copy of the notice of entry of the admonishment in the records of the commission, (3) a copy of the findings of fact and conclusions of law, and (4) a cover which shall bear the conspicuous notation 'PETITION FOR REVIEW OF PRIVATE ADMONISHMENT (RULE 920)' or words of like effect. (Subd (d) as amended and relettered effective January 1, 1989; adopted, effective November 13, 1976, as subd (c).)

"(e) [Disposition of petition for review] Review in the Supreme Court may be granted by an order signed by at least four judges and filed with the clerk. Denial of review may be evidenced by an order signed by the Chief Justice and filed with the clerk. If no order is made within 60 days after the filing of the petition, or any extension of that period, the petition shall be deemed denied and the clerk shall enter a notation in the register to that effect. The Supreme Court may for good cause extend the time for granting or denying the petition for a period not to exceed an additional 60 days. (Subd (e) as amended and relettered effective January 1, 1989; adopted, effective November 13, 1976, as subd (f).)

"(f) [Review applicable only after hearing] No review shall be had in the Supreme Court of a private admonishment issued without a hearing. (Subd (f) as relettered effective January 1, 1989; adopted, effective November 13, 1976, as subd (g).)"

Former Rule
Former rule 920 was adopted, effective August 1, 1961, as rule 917, amended and renumbered effective November 11, 1966, amended and renumbered to be rule 919 subds (b)-(d), effective November 13, 1976.

Drafter's Notes
1984—See note following rule 907.

1988—See note following rule 904.6.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 921. [Renumbered 1996]

Rule 921 adopted effective November 13, 1976; amended and renumbered rule 936 effective December 1, 1996.

Former Rule
Former rule 921 was adopted, effective August 1, 1961, as rule 918, amended and renumbered effective November 11, 1966, amended effective July 1, 1971, and amended and renumbered to be rule 922, effective November 13, 1976.

Drafter's Notes
1996—Rule 921 is renumbered to rule 936 and amended effective December 1, 1996. Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 922. [Repealed 1996]

Rule 922 amended effective July 1, 1985; rule 921 previously amended and renumbered rule 922 effective November 13, 1976; rule 918 previously amended and renumbered effective November 11, 1966; adopted effective August 1, 1961; repealed effective December 1, 1996. The repealed rule related to definitions.

Note
Prior to its repeal, rule 922 read: "In these rules, unless the context or subject matter otherwise requires:

"(a) 'Commission' means the Commission on Judicial Performance.

"(b) 'Judge' means a judge of any court of this state or a retired judge who has elected to serve on senior judge status.

"(c) 'Chairman' includes the acting chairman.

"(d) 'Masters' means the special master or special masters appointed by the Supreme Court upon request of the commission.

"(e) 'Presiding master' means the master so designated by the Supreme Court or, if no designation is made, the judge first named in the order appointing masters.

"(f) 'Examiner' means the counsel designated by the Commission to gather and present evidence before the masters or Commission with respect to the charges against a judge.

"(g) 'Shall' is mandatory and 'may' is permissive.

"(h) 'Mail' and 'mailed' include ordinary mail and personal delivery.

"(i) The masculine gender includes the feminine gender.

"(j) As used in rule 919, 'Supreme Court' includes the tribunal of court of appeal judges created pursuant to Article VI, Section 18(e) of the Constitution."

Drafter's Notes
1985—See note following rule 902.

1996—Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 935. Review of determinations by Commission on Judicial Performance

(a) A petition to the Supreme Court by a judge or former judge to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or disqualify the judge or former judge shall be served and filed within 60 days after

(1) the Commission, pursuant to its rules, notifies the judge or former judge that its determination has been filed or entered in its records, or

(2) the determination becomes final as to the Commission pursuant to its rules, whichever event is later.

Within 45 days after service of the petition, the Commission may serve and file an answer. Within 20 days after service of the answer, the judge or former judge may serve and file a reply. Each petition, answer, or reply submitted for filing shall be accompanied by proof of service, including service upon the Commission of three copies of any petition or reply filed by a judge or former judge. Extensions of time to file the petition, answer, or reply are disfavored and will be granted only upon a specific and affirmative showing of good cause. Good cause does not include ordinary press of business.

(b) The petition, answer, and reply shall address both the appropriateness of review and the merits of the Commission's determination, and they shall serve as briefs on the merits in the event review is granted. Except as provided in these rules, the form of the petition, answer, and reply shall, insofar as practicable, conform to rule 28(e), except that the lengths of the petition, answer, and reply shall conform to the limits set forth in rule 15(e). Each copy of the petition shall contain

(1) a copy of the Commission's determination,

(2) a copy of the notice of filing or entry of the determination in the records of the Commission,

(3) a copy of any findings of fact and conclusions of law, and

(4) a cover which shall bear the conspicuous notation "PETITION FOR REVIEW OF DETERMINATION BY COMMISSION ON JUDICIAL PERFORMANCE (RULE 935)" or words of like effect.

(c) Promptly upon the service and filing of the petition, the Commission shall transmit to the Clerk of the Supreme Court the original record, including a transcript of the testimony, briefs, and all original papers and exhibits on file in the proceeding.

(d) In the event review is granted, the rules adopted by the Judicial Council governing appeals from the superior court in civil cases, other than rule 26 relating to costs, shall apply to proceedings in the Supreme Court for review of a determination of the Commission except where express provision is made to the contrary or where such application would otherwise be clearly impracticable or inappropriate.

Rule 935 adopted effective December 1, 1996.

Drafter's Notes
1996—Rule 935 is adopted effective December 1, 1996. Rule 921 is renumbered rule 936 and amended effective December 1, 1996. Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

Rule 936. Proceedings involving public or private admonishment, censure, removal or retirement of a judge of the Supreme Court

(a) Immediately upon filing of a petition to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish or disqualify a judge of the Supreme Court, the Clerk of the Supreme Court shall select, by lot, seven court of appeal judges who shall elect one of their number presiding justice and perform the duties of the tribunal created under Article VI, Section 18(f) of the Constitution. This selection shall be made upon notice to the Commission, the judge, and the counsel of record in a proceeding open to the public. No court of appeal judge who has served as a master or a member of the Commission in the particular proceeding or is otherwise disqualified may serve on the tribunal.

(Subd (a) amended effective December 1, 1996.

(b) The Clerk of the Supreme Court shall serve as the clerk of the tribunal.

Rule 936 adopted effective November 13, 1976, as rule 921; amended and renumbered effective December 1, 1996.

Drafter's Notes
1996—Rule 921 is renumbered rule 936 and amended effective December 1, 1996. Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

DIVISION II. Rules Relating to Attorney Admission and Disciplinary Proceedings and Review of State Bar Proceedings

Title 3, Miscellaneous Rules—Division II, Rules Relating to Attorney Admission and Disciplinary Proceedings and Review of State Bar Proceedings; Division adopted by the Supreme Court effective March 19, 1956, pursuant to the provisions of B & P C §6102. Heading amended effective April 4, 1973.

Rule 950. Definitions

As used in this division (commencing with rule 950), unless the context otherwise requires:

(1) "member" means a member of the State Bar of California.

(2) "section" refers to a section of the Business and Professions Code.

(3) "State Bar Court" means the Hearing Department or the Review Department established pursuant to sections 6079.1 and 6086.65.

(4) "Review Department" means the Review Department of the State Bar Court established pursuant to section 6086.65.

(5) "General Counsel" means the General Counsel of the State Bar of California.

(6) "Chief Trial Counsel" means the Chief Trial Counsel of the State Bar of California appointed pursuant to section 6079.5.

Rule 950 adopted effective December 1, 1990.

Drafter's Notes
1990—Rule 950 provides definitions used throughout the new and amended rules.

Rule 950.5. Roll of attorneys of persons admitted to practice

The State Bar shall maintain, as part of the official membership records of the State Bar, the Roll of Attorneys of all persons admitted to practice in this State. Such records shall include the information specified in sections 6002.1 and 6064 of the Business and Professions Code and other information as directed by the Court.

Adopted by the Supreme Court effective May 1, 1996.

Rule 951. Authority of the State Bar Court

(a) [Conviction proceedings] The State Bar Court shall exercise statutory powers pursuant to Business and Professions Code sections 6101 and 6102 with respect to the discipline of attorneys convicted of crimes. (See Bus. & Prof. Code section 6087.) For purposes of this rule, a judgment of conviction is deemed final when the availability of appeal has been exhausted and the time for filing a petition for certiorari in the United States Supreme Court on direct review of the judgment of conviction has elapsed and no petition has been filed, or if filed the petition has been denied or the judgment of conviction has

been affirmed. The State Bar Court shall impose or recommend discipline in conviction matters as in other disciplinary proceedings. The power conferred upon the State Bar Court by this rule includes, but is not limited to, the power to place attorneys on interim suspension as authorized by subdivisions (a) and (b) of section 6102, and the power to vacate, delay the effective date of, and temporarily stay the effect of such orders.

(b) [Professional responsibility examination] The State Bar Court shall have the power to extend the time within which a member of the State Bar must take and pass a professional responsibility examination, to suspend a member for failing to take and pass such examination, and to vacate a member's suspension for failing to take and pass such examination.

(c) [Probation] The State Bar Court shall have the power, for good cause, to approve stipulations between the member and the Chief Trial Counsel for modification of the terms of a member's probation and to make corrections and minor modifications to the terms of a member's disciplinary probation. The order of the State Bar Court shall be filed promptly with the Clerk of the Supreme Court.

(d) [Rule 955 compliance] The State Bar Court shall have the power, for good cause, to extend the time within which a member must comply with the provisions of California Rules of Court, rule 955.

(e) [Commencement of suspension] The State Bar Court shall have the power, for good cause, to delay temporarily the effective date of, or temporarily stay the effect of, an order for a member's disciplinary suspension from practice.

(f) [Readmission and reinstatement] Applications for readmission or reinstatement shall, in the first instance, be filed and heard by the State Bar Court. Applicants for readmission or reinstatement shall

(1) pass a professional responsibility examination,

(2) establish their rehabilitation and present moral qualifications for readmission, and

(3) establish present ability and learning in the general law. The State Bar may require applicants who fail to make the affirmative showing of sufficient present learning in the general law to demonstrate such learning by passing one of the General Examinations required of applicants for admission.

(g) [Inherent power of Supreme Court] Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the lawyer discipline and admissions system.

Rule 951 amended by the Supreme Court effective April 1, 1996; adopted effective December 1, 1990.

Former Rule
Former rule 951, similar to the present rule, was adopted effective March 19, 1956; amended effective July 1, 1968, October, 1973, and March 19, 1976; and repealed effective December 1, 1990.

Drafter's Notes
1990—Rule 951 authorizes the State Bar Court to conduct various interim proceedings without action by the Supreme Court.

Rule 951.5 Standard of review for State Bar Court Review Department

Upon review pursuant to rule 301 of the Rules of Procedure of the State Bar of California, or such other rule as may be adopted governing the review of any decisions, orders or rulings by a hearing judge that fully disposes of an entire proceeding, the Review Department of the State Bar Court shall independently review the record and may adopt findings, conclusions, and a decision or recommendation at variance with those of the hearing judge.

Rule 951.5 adopted by the Supreme Court effective February 23, 2000.

Rule 952. Review of State Bar Court decisions

(a) [Review of recommendation of disbarment or suspension] A petition to the Supreme Court by a member to review a decision of the State Bar Court recommending his or her disbarment or suspension from practice shall be filed within 60 days after the filing with the Clerk of the Supreme Court of a certified copy of the decision complained of. The State Bar may serve and file an answer to the petition within 15 days of service. Within five days after service of the answer, the petitioner may serve and file a reply. If review is ordered by the Supreme Court, the State Bar shall serve and file a supplemental brief within 45 days after the filing of the order. Within 15 days of service of the brief, the petitioner may serve and file a reply brief.

(Subd (a) amended effective December 1, 1990; previously amended effective July 1, 1968; previously renumbered and amended effective October 1, 1973.)

(b) [Review of State Bar recommendation to set aside stay of suspension or modify probation] A petition to the Supreme Court by a member to review a recommendation of the State Bar Court that a stay of an order of suspension be set aside or that the duration or conditions of probation be modified on account of a violation of probation shall be filed within 15 days after the filing with the Clerk of the Supreme Court of a certified copy of the decision complained of. Within 15 days after service of the petition, the State Bar may serve and file an answer. Within five days after service of such answer, the petitioner may serve and file a reply.

(Subd (b) amended effective December 1, 1990; adopted effective October 1, 1973.)

(c) [Review of interim decisions] A petition to the Supreme Court by a member to review a decision of the State Bar Court regarding interim suspension, the exercise of powers delegated by rule 951, subdivisions (b) through (e), or on another interlocutory matter shall be filed within 15 days after written notice of the adverse decision of the State Bar Court is mailed, postage prepaid, by the State Bar to the petitioner and to his or her counsel of record, if any, at their respective addresses pursuant to section 6002.1. Within 15 days after service of the petition, the State Bar may serve and file an answer. Within five days after service of the answer, the petitioner may serve and file a reply.

(Subd (c) adopted effective December 1, 1990.)

(d) [Review of other decisions] A petition to the Supreme Court to review any other decision of the State Bar Court or action of the Board of Governors of the State Bar, or of any board or committee appointed by it and authorized to make a determination pursuant to the provisions of the State Bar Act, or of the chief executive officer of the State Bar or the designee of the chief executive officer authorized to make a determination pursuant to article 10 of the State Bar Act or these rules of court, shall be filed within 60 days after written notice of the action complained of is mailed, postage prepaid, to the petitioner, addressed to the petitioner at his or her address pursuant to section 6002.1. Within 15 days after service of the petition, the State Bar may serve and file an answer and brief. Within five days after service of the answer, the petitioner may serve and file a reply. If a review is ordered by the Supreme Court, the State Bar, within 45 days after filing of the order, may serve and file a supplemental brief. Within 15 days after service of the brief, the petitioner may file a reply brief.

(Subd (d) as relettered and amended effective December 1, 1990; previously amended effective July 1, 1968; previously renumbered and amended effective October 1, 1973; previously amended effective May 1, 1986, and April 2, 1987.)

(e) [Contents of petition] A petition to the Supreme Court filed pursuant to subdivisions (a) and (b) of this rule shall be verified, shall specify the grounds relied upon, shall show that review within the State Bar Court has been exhausted, shall address why review is appropriate under one or more of the grounds set forth in rule 954 of these rules, and shall have attached a copy of the State Bar Court decision from which relief is sought. When review is sought pursuant to subdivisions (c) and (d) of this rule, the petition shall also be accompanied by a record adequate to permit review of the ruling, including:

(1) copies of all documents and exhibits submitted to the State Bar Court supporting and opposing petitioner's position;

(2) copies of all other documents submitted to the State Bar Court that are necessary for a complete understanding of the case and the ruling;

(3) a transcript of the proceedings in the State Bar Court leading to the decision, or if a transcript is unavailable, a declaration by counsel (i) explaining why a transcript is unavailable and (ii) fairly summarizing the proceedings, including arguments by counsel and the basis of the State Bar Court's decision, if stated; or a declaration by counsel stating that the transcript has been ordered, the date it was ordered, and the date it is expected to be filed, which shall be a date prior to any action requested of the Supreme Court other than issuance of a stay supported by other parts of the record.

All copies of documents shall be legible.

A petitioner who requests an immediate stay shall explain in the petition the reasons for the urgency and set forth all relevant time constraints.

If a petitioner does not submit the required record, the court may summarily deny the stay request, the petition, or both.

(Subd (e) repealed and adopted effective March 15, 1991; previously repealed and adopted by the Supreme Court effective Dec. 1, 1990 and Feb. 1, 1991.)

(f) [Service] All petitions, briefs, reply briefs, and other pleadings filed by a petitioner pursuant to this rule shall be accompanied by proof of service of three copies on the General Counsel of the State Bar at the San Francisco office of the State Bar, and of one copy on the Clerk of the State Bar Court at the Los Angeles office of the State Bar Court.The State Bar shall serve the

member at his or her address pursuant to section 6002.1, and his or her counsel of record, if any.

(Subd (f) amended effective March 15, 1991; adopted by the Supreme Court effective Dec. 1, 1990; previously amended by the Supreme Court effective Feb. 1, 1991.)

Rule 952 adopted by the Supreme Court effective April 20, 1943, and by the Judicial Council effective July 1, 1943; amended effective October 1, 1973, July 1, 1976, May 1, 1986, April 2, 1987, December 1, 1990, February 1, 1991, and March 15, 1991; rule 59 previously renumbered effective October 1, 1973.

Note

Rule 952 was originally adopted as rule 59 by the Supreme Court of California effective April 20, 1943, and by the California Judicial Council effective July 1, 1943. It was renumbered rule 952 effective October 1, 1973.

Drafter's Notes

1990—Rule 952 provides a uniform 60-day time period for filing petitions for review in both criminal and noncriminal disciplinary proceedings. In interim proceedings, a petition for review must be filed with the Supreme Court within 15 days. Other briefing deadlines are authorized.

Rule 952.5. Petitions for review by Chief Trial Counsel

The Chief Trial Counsel may petition for review of recommendations and decisions of the State Bar Court as indicated:

(a) From recommendations that a member be suspended, with 60 days of filing of the recommendation with the Supreme Court.

(Subd (a) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 10, 1990.)

(b) From recommendations that the duration or conditions of probation be modified, or a reinstatement application be granted, within 15 days of the filing of the recommendation with the Supreme Court.

(Subd (b) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 10, 1991.)

(c) From decisions not to place an eligible member on interim suspension, or vacating interim suspension, or a denial of a petition brought under section 6007(c), within 15 days of notice as provided by the rules adopted by the State Bar.

(Subd (c) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 10, 1990.)

(d) From decisions dismissing disciplinary proceedings or recommending approval, within 60 days of notice as provided by the rules adopted by the State Bar.

Proceedings under this rule with regard to briefing, service of process, and applicable time periods therefor shall correspond to proceedings brought under rule 952 and the corresponding subdivisions thereof, except that the rights and duties of the member and the State Bar in rule 952 shall be reversed.

(Subd (d) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 10, 1990.)

Rule 952.5 adopted effective March 15, 1991.

Drafter's Notes

1990—Rule 952.5 authorizes Chief Trial Counsel of State Bar to seek Supreme Court review of State Bar Court recommendations and decisions. Provides time periods for briefing and service of process.

Rule 952.6. Petitions for review by Committee of Bar Examiners; grounds for review; confidentiality

(a) [Petition for review by Committee of Bar Examiners] The Committee of Bar Examiners may petition for review of the decision of the Review Department of the State Bar Court in moral character proceedings. All petitions under this rule shall be filed with the Clerk of the Supreme Court within 60 days after the State Bar Court decision is filed and served on the General Counsel of the State Bar at the State Bar San Francisco office. The applicant may file and serve an answer to the petition within 15 days of service. Within five days after service of the answer the Committee of Bar Examiners may serve and file a reply. If review is ordered by the Supreme Court, within 45 days after filing of the order, the applicant may file a supplemental brief. Within 15 days after service of the brief, the petitioner may serve and file a reply brief.

(b) [Contents of petition] A petition to the Supreme Court filed pursuant to this rule shall show that review within the State Bar Court has been exhausted, shall address why review is appropriate under one or more of the grounds set forth in rule 954 of these rules, and shall have attached a copy of the State Bar Court decision for which review is sought.

(c) [Service] All petitions, briefs, reply briefs, and other pleadings filed by the Committee of Bar Examiners shall include a proof of service by mail to the applicant's last address provided to the State Bar or the applicant's attorney of record, if any. Filings by the applicant shall include a proof of service of three copies on the General Counsel of the State Bar at the State Bar San Francisco office and one copy on the Clerk of the State Bar Court at the San Francisco Office of the State Bar Court.

(Subd (c) amended effective April 20, 1998.)

(d) [Confidentiality] All filings under this rule shall be confidential unless: (1) the applicant waives confidentiality in writing; or (2) the Supreme Court grants review. Once the Supreme Court grants review, filings under this rule shall be open to the public; however, if good cause exists, the Supreme Court may order portions of the record or the identity of witnesses or other third parties to the proceedings to remain confidential.

(Subd (d) adopted effective April 20, 1998.)

Rule 952.6 amended by the Supreme Court effective April 20, 1998, and adopted by the Judicial Council May 6, 1998; adopted by the Supreme Court effective July 1, 1993.

Drafter's Notes

1998—The Supreme Court amended this rule to express court policy that filings under the rule are not confidential after the Supreme Court grants review. Rule 952.6, as amended by the Supreme Court, is effective April 20, 1998. The Judicial Council adopted this rule by circulating order on May 6, 1998.

Rule 953. Effective date of disciplinary orders and decisions

(a) [Effective date of Supreme Court orders] Unless otherwise ordered, all orders of the Supreme Court imposing discipline or opinions deciding causes involving the State Bar become final 30 days after filing. The Supreme Court may grant a rehearing at any time before the decision or order becomes final. Petitions for rehearing may be filed within 15 days of the date the decision or order was filed. Unless otherwise ordered, when petitions for review pursuant to rules 952(c) and 952.5(c) are acted upon summarily, the orders of the Supreme Court are final forthwith and shall not have law-of-the-case effect in subsequent proceedings in the Supreme Court.

(Subd (a) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 1, 1990.)

(b) [Effect of State Bar Court orders when no review sought] Unless otherwise ordered, if no petition for review is filed within the time allowed by rule 952, subdivisions (a), (b), and (d), or rule 952.5, subdivisions (a) and (b), as to a recommendation of the State Bar Court for the disbarment, suspension, or reinstatement of a member, the vacation of a stay, or modification of the duration or conditions of a probation, the recommendation of the State Bar Court shall be filed as an order of the Supreme Court following the expiration of the time for filing a timely petition. The Clerk of the Supreme Court shall mail notice of this effect to the member at his or her address pursuant to section 6002.1 and to the State Bar.

(Subd (b) adopted effective March 15, 1991; previously adopted by the Supreme Court effective Dec. 1, 1990.)

(c) [Effect of State Bar Court orders in moral character proceedings when no review sought] Unless otherwise ordered, if no petition for review is filed within the time allowed by rule 952.6, subdivision (a), as to a recommendation of the State Bar Court in moral character proceedings, the recommendation of the State Bar Court shall be filed as an order of the Supreme Court following the expiration of the time for filing a timely petition. The Clerk of the Supreme Court shall mail notice of this effect to the applicant's last address provided to the State Bar or the applicant's attorney of record, if any, and to the State Bar.

Rule 953 amended effective February 1, 1996; adopted effective March 15, 1991.

Drafter's Notes
1990—Rule 953 provides that recommendations of the State Bar Court shall be filed as orders of the Supreme Court, unless a party seeks petition for review with the Supreme Court or unless the court grants review on its own motion.

Rule 953.5. Remand with instructions

At any time prior to the final disposition of a decision of the State Bar Court filed pursuant to Business and Professions Code section 6081, the Supreme Court may remand the matter to the State Bar Court with instructions to conduct such further proceedings as the Supreme Court deems necessary.

Rule 953.3 adopted effective February 1, 1991.

Rule 954. Grounds for review of State Bar Court decisions in Supreme Court

(a) [Grounds] The Supreme Court will order review of a decision of the State Bar Court recommending disbarment or suspension from practice when it appears

(1) necessary to settle important questions of law;

(2) the State Bar Court has acted without or in excess of jurisdiction;

(3) petitioner did not receive a fair hearing;

(4) the decision is not supported by the weight of the evidence; or

(5) the recommended discipline is not appropriate in light of the record as a whole.

(Subd (a) adopted by the Supreme Court effective Feb. 1, 1991.)

(b) [Denial of review] Denial of review of a decision of the State Bar Court shall constitute a final judicial determination on the merits and the recommendation of the State Bar Court shall be filed as an order of the Supreme Court.

(Subd (b) adopted by the Supreme Court effective Feb. 1, 1991.)

Rule 954 adopted effective February 1, 1991.

Rule 955. Duties of disbarred, resigned or suspended attorneys

(a) [Disbarment, suspension, and resignation orders] The Supreme Court may include in an order disbarring or suspending a member of the State Bar, or accepting his or her resignation, a direction that the member shall, within such time limits as the Supreme Court may prescribe,

(1) notify all clients being represented in pending matters and any co-counsel of his or her disbarment, suspension, or resignation and his or her consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and, in the absence of co-counsel, also notify the clients to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another attorney or attorneys,

(2) deliver to all clients being represented in pending matters any papers or other property to which the clients are entitled, or notify the clients and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property,

(3) refund any part of fees paid that have not been earned, and

(4) notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of the disbarment, suspension, or resignation and consequent disqualification to act as an attorney after the effective date of the disbarment, suspension, or resignation, and file a copy of the notice with the court, agency, or tribunal before which the litigation is pending for inclusion in the respective file or files.

(Subd (a) amended effective December 1, 1990; adopted effective April 4, 1973.)

(b) [Notices to clients, co-counsel, opposing counsel, and adverse parties] All notices required by an order of the Supreme Court or the State Bar Court pursuant to this rule shall be given by registered or certified mail, return receipt requested, and shall contain an address where communications may be directed to the disbarred, suspended, or resigned member.

(Subd (b) amended effective December 1, 1990; adopted effective April 4, 1973.)

(c) [Filing proof of compliance] Within such time as the order may prescribe after the effective date of the member's disbarment suspension, or resignation, the member shall file with the Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered pursuant to this rule. The affidavit shall also set forth an address where communications may be directed to the disbarred, suspended, or resigned member.

(Subd (c) amended effective December 1, 1990; adopted effective April 4, 1973.)

(d) [Sanctions for failure to comply] A disbarred or resigned member's willful failure to comply with the provisions of this rule constitutes a ground for denying his or her application for reinstatement or readmission. A suspended member's willful failure to comply with the provisions of this rule constitutes a cause for disbarment or suspension and for revocation of any pending probation. Additionally, such failure may be punished as a contempt or a crime.

(Subd (d) as relettered and amended effective December 1, 1990.)

Rule 955 amended effective December 1, 1990; adopted effective April 4, 1973.

Drafter's Notes
1990—Rule 955 requires that State Bar members who are ordered disbarred, resigned or suspended file proof of compliance with the Clerk of the State Bar Court instead of the Clerk of the Supreme Court.

Rule 956. Conditions attached to reprovals

(a) [Attachment of conditions to reprovals] The State Bar may attach conditions, effective for a reasonable time, to a public or private reproval administered upon a member of the State Bar. Conditions so attached shall be based upon a finding by the State Bar that protection of the public and the interests of the attorney will be served thereby. The State Bar when administering the reproval shall give notice to the attorney that failure to comply with the conditions may be punishable.

(b) [Sanctions for failure to comply] An attorney's failure to comply with conditions attached to a public or private reproval may constitute cause for a separate proceeding for willful breach of rule 9-101 of the Rules of Professional Conduct.

Rule 956 adopted effective November 18, 1983.

Rule 957. Law school study in schools other than those accredited by the examining committee

(a) A person who seeks to be certified to the Supreme Court for admission in and licensed to practice law in accordance with section 6060(e)(3) of the Business and Professions Code shall receive credit for

(1) study in a law school in the United States other than one accredited by the examining committee established by the Board of Governors of the State Bar pursuant to section 6046 of said code only if the law school satisfies the requirements of paragraph (b) or paragraph (c) of this rule; or

(2) instruction in law from a correspondence school only if the correspondence school requires 864 hours of preparation and study per year for four years and satisfies the requirements of paragraph (d) of this rule; or

(3) study in a law school outside the United States other than one accredited by the examining committee established by the Board of Governors of the State Bar pursuant to section 6046 of said code only if the examining committee is satisfied that the academic program of such law school is

substantially equivalent to that of a law school qualified under paragraph (b) of this rule.

(Subd (a) amended effective April 2, 1984.)

(b) A law school in this state that is not accredited by the examining committee must

(1) be authorized to confer professional degrees by the laws of this state,

(2) maintain a regular course of instruction in law, with a specified curriculum and regularly scheduled class sessions,

(3) require classroom attendance of its students for a minimum of 270 hours a year for at least four years, and further require regular attendance of each student at not less than 80 percent of the regularly scheduled class hours in each course in which such student was enrolled and maintain attendance records adequate to determine each student's compliance with such requirements,

(4) maintain, in a fixed location, physical facilities capable of accommodating the classes scheduled for that location,

(5) have an adequate faculty of instructors in law, provided that the faculty will prima facie be deemed adequate if at least 80 percent of the instruction in each academic period is by persons who possess one or more of the following qualifications:

(i) admission to the general practice of the law in any jurisdiction in the United States,

(ii) judge of a United States court or a court of record in any jurisdiction in the United States, or

(iii) graduation from a law school accredited by the examining committee,

(6) own and maintain a library consisting of not less than the following sets of books, all of which shall be current and complete:

(i) the published reports of the decisions of California courts, with advance sheets and citator,

(ii) a digest or encyclopedia of California law,

(iii) an annotated set of the California codes,

(iv) a current, standard text or treatise for each course or subject in the curriculum of the school for which such a text or treatise is available,

(7) establish and maintain standards for academic achievement, advancement in good standing and graduation and provide for periodic testing of all students to determine the quality of their performance in relation to such standards, and

(8) register with the examining committee, and maintain such records (available for inspection by the examining committee) and file with the examining committee such reports, notices and certifications, as may be required by the rules of the examining committee.

(Subd (b) amended effective April 2, 1984.)

(c) A law school in the United States that is outside the state of California and is not accredited by the examining committee must

(1) be authorized to confer professional degrees by the law of the state in which it is located,

(2) comply with subparagraphs (2), (3), (4), (5), (7), and (8) of paragraph (b) of this rule, and

(3) own and maintain a library that is comparable in content to that specified in subparagraph (6) of paragraph (b) of this rule.

(Subd (c) amended effective April 2, 1984.)

(d) It is the duty of a correspondence law school to register with the examining committee and file such reports, notices and certifications as may be required by the rules of the examining committee concerning any person whose mailing address is in the state of California or whose application to, contract with, or correspondence with or from the law school indicates that the instruction by correspondence is for the purpose or with the intent of qualifying that person for admission to practice law in California.

(e) The examining committee may make such inspection of law schools not accredited by the committee or correspondence schools as may be necessary or proper to effectuate the provisions of section 6060 of the Business and Professions Code and of this rule and of the rules of the examining committee.

(f) This rule shall not apply to any person who, on the effective date of the rule, had commenced the study of law in a manner authorized by section 6060(e) of the Business and Professions Code and registered as a law student prior to January 1, 1976 (as provided in section 6060(d) of the Business and Professions Code) and otherwise satisfies the requirements of section 6060(e) of the Business and Professions Code; provided that after January 1, 1976, credit shall be given such person for any study in an unaccredited law school or by correspondence only if the school complies with the requirements of paragraph (b)(8) or paragraph (d) of this rule, whichever is applicable, and permits inspection as provided in paragraph (e) of this rule.

Rule 957 amended effective April 2, 1984; adopted by the Supreme Court effective October 8, 1975.

Rule 958. Minimum continuing legal education

(a) [Statutory authorization] This rule is adopted under section 6070 of the Business and Professions Code.

(b) [State Bar Minimum continuing legal education program] The State Bar shall establish and administer a minimum continuing legal education program, beginning on or after January 1, 1991, under rules adopted by the Board of Governors of the State Bar. These rules may provide for carry forward of excess credit hours, staggering of the education requirement for implementation purposes, and retroactive credit for legal education.

(Subd (b) amended effective September 27, 2000.)

(c) [Minimum continuing legal education requirements] Each active member of the State Bar (1) not exempt under Business and Profession Code section 6070, (2) not a full-time employee of the United States Government, its departments, agencies, and public corporations, acting within the scope of his or her employment, and (3) not otherwise exempt under rules adopted by the Board of Governors of the State Bar, shall, within 36-month periods designated by the State Bar, complete at least 25 hours of legal education approved by the State Bar or offered by a State Bar-approved provider. Four of those hours shall address legal ethics. Members may be required to complete legal education in other specified areas within the 25-hour requirement under rules adopted by

the State Bar. Each active member shall report his or her compliance to the State Bar under rules adopted by the Board of Governors of the State Bar.

(Subd (c) amended effective September 27, 2000.)

(d) [Failure to comply with program] A member of the State Bar who fails to satisfy the requirements of the State Bar's minimum continuing legal education program shall be enrolled as an inactive member of the State Bar under rules adopted by the Board of Governors of the State Bar.

(e) [Fee] The State Bar shall have the authority to set and collect appropriate fees and penalties.

Rule 958 amended by the Supreme Court effective September 27, 2000; adopted effective December 6, 1990; previously amended effective December 25, 1992.

Rule 960. Resignations of members of the State Bar with disciplinary charges pending

(a) [General provisions] A member of the State Bar against whom disciplinary charges are pending may tender a written resignation from membership in the State Bar and relinquishment of the right to practice law. The written resignation shall be signed and dated by the member at the time it is tendered and shall be tendered to the Office of the Clerk, State Bar Court, 1230 W. Third Street, Los Angeles, California 90017. The resignation shall be substantially in the form specified in subdivision (b) of this rule. In submitting a resignation under this rule, a member of the State Bar shall agree to be transferred to inactive membership in the State Bar effective upon the filing of the resignation by the State Bar. Within 30 days after filing of the resignation, the member shall perform the acts specified in rule 955(a)(1) through (4) and (b) of these rules and within 40 days after filing of the resignation, the member shall file with the Office of the Clerk, State Bar Court, at the above address, the proof of compliance set forth in rule 955(c) of these rules. No resignation shall become effective unless and until accepted by the Supreme Court after consideration and recommendation by the Board of Governors of the State Bar.

Drafter's Note
Effective January 1, 1994, the Office of the Clerk, State Bar Court is located at 1149 So. Hill Street, Los Angeles, California 90015.

(b) [Form of resignation] The member's written resignation shall be in substantially the following form:

"I, *[name of member]*, against whom charges are pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the State of California and agree that in the event that this resignation is accepted and I later file a petition for reinstatement, that the State Bar will consider in connection therewith all disciplinary matters and proceedings against me at the time this resignation is accepted, in addition to other appropriate matters. I further agree that upon the filing of this resignation by the Office of the Clerk, State Bar Court, I will be transferred to inactive membership of the State Bar. Upon such transfer, I acknowledge that I will be ineligible to practice law or to advertise or hold myself out as practicing or as entitled to practice law. I further agree that within 30 days of the filing of the resignation by the Office of the Clerk, State Bar Court, I shall perform the acts specified in rules 955(a)-(b), California Rules of Court, and within 40 days of the date of filing of this resignation by the Office of the Clerk, State Bar Court, I shall notify that Office as specified in rule 955(c), California Rules of Court."

(c) [Consideration of resignation by State Bar Board of Governors and Supreme Court; grounds for rejection of resignation] Upon receipt of a member's resignation, tendered in conformity with the provisions of subdivision (b) of this rule, the Office of the Clerk, State Bar Court, shall promptly file the resignation. The Board of Governors of the State Bar shall thereafter consider the member's resignation and recommend to the Supreme Court whether the resignation should be accepted and, if so, whether testimony should be perpetuated. The Office of the Clerk, State Bar Court, shall transmit to the Clerk of the Supreme Court, three certified copies of the Board's recommendation together with the member's resignation, when, by the terms of the Board's recommendation, the resignation should be transmitted to the Supreme Court. The Supreme Court shall make such order as to the member's resignation as it deems appropriate. The Supreme Court may decline to accept the resignation upon report by the Board of Governors that perpetuation of necessary testimony is not complete; that after transfer to inactive status, the member has practiced law or has advertised or held himself or herself out as entitled to practice law; that the member has failed to perform the acts specified by rule 955(a)-(b) of these rules; that the member has failed to provide proof of compliance as specified in rule 955(c) of these rules; that the Supreme Court has filed an order of disbarment as to the member or upon such other evidence as may show that acceptance of the resignation of the member will reasonably be inconsistent with the need to protect the public, the courts or the legal profession.

Rule 960 adopted by the Supreme Court effective December 14, 1984.

Rule 961. State Bar Court Judges

(a) [Applicant Evaluation and Nomination Committee]

(1) The Supreme Court shall create an Applicant Evaluation and Nomination Committee (committee) to solicit, receive, screen and evaluate all applications for appointment and/or reappointment to any appointive position of judge of the State Bar Court (hearing judge, presiding judge, and review department judge). The committee, which shall serve at the pleasure of the Supreme Court, shall consist of seven members appointed by the court of whom four shall be members of the State Bar in good standing, two shall be retired or active judicial officers, and one shall be a public member who has never been a member of the State Bar or admitted to practice before any court in the United States. Two members of the committee shall be present members of the Board of Governors of the State Bar (neither of whom shall be from the Board's Discipline Committee).

(2) The committee shall adopt, and implement upon approval by the Supreme Court, procedures for: (a) timely notice to potential applicants of vacancies; (b) receipt of applications for appointments to those positions from both incumbents and other qualified persons; (c) soliciting and receiving public comment; (d) evaluation and rating of applicants; and (e) transmittal of the materials specified in rule 961(b) to the Supreme Court and, as applicable, other appointing authorities. The procedures adopted by the committee shall include provisions to ensure confidentiality comparable to those followed by the commission established pursuant to Government Code section 12011.5 [Judicial Nominees Evaluation Commission].

(3) The Board of Governors of the State Bar, in consultation with the Supreme Court if necessary, shall provide facilities and support staff needed by the committee to carry out its obligations under this rule.

(Subd (a) amended effective July 1, 2000; previously amended February 15, 1995.)

(b) [Evaluations]

(1) With regard to applicants seeking positions appointed by the Supreme Court, the committee shall evaluate the qualifications of and rate all applicants and shall submit to the Supreme Court the nominations of at least three qualified candidates for each vacancy. The committee shall

report in confidence to the Supreme Court its evaluation and rating of applicants recommended for appointment, and the reasons therefor, including a succinct summary of their qualifications, at a time to be designated by the Supreme Court. The report shall include written comment received by the committee, which shall be transmitted to the Supreme Court together with the nominations.

(2) With regard to applicants seeking positions appointed by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the committee shall evaluate the qualifications of and rate all applicants and shall submit in confidence to the Supreme Court and, as applicable, to other appointing authorities all applications for such positions together with the committee's evaluation and rating of these applicants, including any written comments received by the committee, at a time to be designated by the Supreme Court.

(3) In determining the qualifications of an applicant for appointment or reappointment the committee shall consider, among other appropriate factors, the following: industry, legal and judicial experience (including prior service as a judge of the State Bar Court), judicial temperament, honesty, objectivity, community respect, integrity, and ability. Any evaluation or rating of an applicant and any recommendation for appointment or reappointment by the committee shall be made in conformity with subdivision (b) of Business and Professions Code section 6079.1 and in light of the factors specified in Government Code section 12011.5, subdivision (d), and those specified in this subdivision.

(4) Upon transmittal of its report to the Supreme Court, the committee shall notify any incumbent who has applied for reappointment by the Supreme Court if he or she is or is not among the applicants recommended for appointment to the new term by the committee. The applicable appointing authority shall notify as soon as possible an incumbent who has applied for reappointment but is not selected.

(Subd (b) amended July 1, 2000; adopted effective February 15, 1995.)

(c) [Appointments] Only applicants found to be qualified by the committee or by the Supreme Court may be appointed. Upon the request of the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Supreme Court will reconsider a finding by the committee that a particular applicant is not qualified. The Supreme Court shall make such orders as to the appointment

of applicants as it deems appropriate, including extending the term of incumbent judges pending such order or providing for staggered terms.

(Subd (c) amended July 1, 2000; adopted effective February 15, 1995.)

(d) [Discipline for misconduct or disability] A judge of the State Bar Court is subject to discipline or retirement on the same grounds as a judge of a court of this state. Complaints concerning the conduct of a judge of the State Bar Court shall be addressed to the Executive Director-Chief Counsel of the Commission on Judicial Performance, who is hereby designated as the Supreme Court's investigator for the purpose of evaluating those complaints, conducting any necessary further investigation, and determining whether formal proceedings should be instituted. If there is reasonable cause to institute formal proceedings, the investigator shall notify the Supreme Court of that fact and shall serve as or appoint the examiner and make other appointments and arrangements necessary for the hearing. The Supreme Court shall then appoint one or more active or retired judges of superior courts or Courts of Appeal as its special masters to hear the complaint and the results of the investigation, and to report to the Supreme Court on the masters' findings, conclusions, and recommendations as to discipline. The procedures of the Commission on Judicial Performance shall be followed by the investigator and special masters, to the extent feasible. Procedure in the Supreme Court after a discipline recommendation is filed shall, to the extent feasible, be the same as is followed when a determination of the Commission on Judicial Performance is filed.

(Subd (d) relettered effective February 15, 1995; amended July 1, 2000; adopted as subd (b) effective December 1, 1990.)

Rule 961 amended effective July 1, 2000; previously amended February 15, 1995; adopted effective December 1, 1990.

Drafter's Notes
1990—Rule 961 provides for disciplinary procedures for State Bar Court judges.

2000—Changes adopted by the Supreme Court, July 3, 2000

Rule 962. Suspension of members of the State Bar for failure to comply with judgment or order for child or family support

(a) [General provisions] Pursuant to section 11350.6 of the Welfare and Institutions Code, the State Bar is authorized to transmit to the Supreme Court on an annual basis the names of those members listed by the State Department

of Social Services as delinquent in their payments of court-ordered child or family support with a recommendation for their suspension from the practice of law. When a member is suspended, reinstatement may occur only after receipt of notification from the State Bar that the member's name has been removed from the State Department of Social Services list. Pursuant to section 11350.6 subdivision (*l*) of the Welfare and Institutions Code, the State Bar is further authorized to promptly transmit to the Supreme Court with a recommendation for their suspension from the practice of law the names of those members previously listed by the State Department of Social Services as delinquent in their payments of court-ordered child or family support, who obtained releases pursuant to section 11350.6, subdivision (h) of the Welfare and Institutions Code, and who have subsequently been identified by the Department of Social Services as again being delinquent.

(b) [Authorization to adopt rules and regulations] The Board of Governors of the State Bar is further authorized to adopt such rules and regulations as it deems necessary and appropriate in order to comply with this Rule of Court. The rules and regulations of the State Bar shall contain procedures governing the notification, suspension, and reinstatement of members of the State Bar in a manner not inconsistent with section 11350.6 of the Welfare and Institutions Code.

Rule 962 amended by the Supreme Court effective April 1, 1996; adopted effective January 31, 1993.

Note
1993—This rule is **not** jointly adopted by the Judicial Council of California.

Rule 963. Interim Special Regulatory Fee for Attorney Discipline.

(a) This rule is adopted by the Supreme Court solely as an emergency interim measure to protect the public, the courts, and the legal profession from the harm caused by the absence of an adequately functioning attorney disciplinary system. The Supreme Court contemplates that the rule may be modified or repealed once legislation designed to fund an adequate attorney disciplinary system is enacted and becomes effective.

(b) Each active member shall pay a mandatory regulatory fee of one hundred seventy-three dollars ($173) to the Special Master's Attorney Discipline Fund, to be established by a special master appointed pursuant to subdivision (c). This $173 assessment is in addition to the mandatory fees currently authorized by statute.

Payment of this fee is due by February 1, 1999. Late payment or nonpayment of the fee shall subject a member to the same penalties and/or sanctions applicable to mandatory fees authorized by statute.

(c) All money collected pursuant to this rule shall be deposited into the Special Master's Attorney Discipline Fund, and shall be used exclusively for the purpose of maintaining and operating an attorney disciplinary system, including payment of the reasonable fees, costs and expenses of a special master as ordered by the Supreme Court.

A special master appointed by the Supreme Court shall disburse and allocate funds from the Special Master's Attorney Discipline Fund for the limited purpose of supporting an attorney discipline system. The special master shall exercise authority pursuant to the charge of the Supreme Court and shall submit quarterly reports and recommendations to the Supreme Court regarding the use of these funds.

Should any funds collected pursuant to this rule not be used for the limited purpose set forth in the rule, the Supreme Court may order the refund of an appropriate amount to members or take any other action that it deems appropriate.

Rule 963 adopted by the Supreme Court effective December 3, 1998.

DIVISION IIa. Judicial Education

Adopted effective January 1, 1996.

Rule 970. Judicial education

Rule 970. Judicial education

(a) **[Judicial education responsibility]** Judicial education for all trial and appellate court judicial officers throughout their careers is essential to enhance the fair and efficient administration of justice. Judicial officers are entrusted by the public with the impartial and knowledgeable handling of proceedings that affect people's freedom, livelihood, and happiness. Participation in judicial education activities is an official judicial duty. To preserve the leadership and

independence of the judicial branch, the responsibility for planning, conducting, and overseeing judicial education rests with the judiciary.

(b) [Judicial education objectives] Judicial officers, educational committees, approved providers, and others who plan educational programs shall endeavor to achieve the following objectives:

(1) Provide judicial officers with the knowledge, skills, and techniques required to competently perform their judicial responsibilities fairly and efficiently;

(2) Assist judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias;

(3) Promote the judicial officers' adherence to the highest ideals of personal and official conduct as set forth in the Code of Judicial Ethics;

(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of trials;

(5) Promote standardized court practices and procedures; and

(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.

(c) [Applicability] All California judicial officers shall comply with these judicial education requirements.

(d) [Definitions] As used in this rule, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are full-time court employees not engaged in the practice of law.

(e) [Educational requirements for new judicial officers]

(1) Each newly appointed or elected trial court judicial officer shall complete three weeks of new judge education provided by the Center for Judicial Education and Research (CJER) within the following time frames:

(i) A one-week orientation program shall be completed within six months of taking the oath as a judicial officer. Elevated judges and commissioners and referees who become judges are

excluded from this requirement if they have previously attended the one-week program.

(ii) The two-week Judicial College shall be completed within two years of taking the oath as a judicial officer.

(2) Each new Court of Appeal justice shall attend a new appellate judge orientation program sponsored by a national provider of appellate orientation programs or by CJER within two years of confirmation of appointment.

(f) [Budget] Each presiding judge shall include as part of the court's budget request adequate funding to provide annual judicial education consistent with Standards of Judicial Administration section 25.

(g) [Educational leave] Each presiding judge shall grant sufficient educational leave to all new judicial officers to enable them to meet the requirements of subdivision (e). To the extent compatible with the efficient administration of justice, all presiding judges shall grant to all judicial officers sufficient leave to participate in educational programs consistent with Standards of Judicial Administration section 25.

Rule 970 adopted effective January 1, 1996.

DIVISION III. Rules for Publication of Appellate Opinions

Title 3, Miscellaneous Rules—Division III, Rules for Publication of Appellate Opinions; Division adopted by the Supreme Court effective January 1, 1964.

Rule 976. Publication of appellate opinions

(a) [Supreme Court] All opinions of the Supreme Court shall be published in the Official Reports.

(Subd (a) adopted effective January 1, 1964.)

(b) [Standards for publication of opinions of other courts] No opinion of a Court of Appeal or an appellate department of the superior court may be published in the Official Reports unless the opinion:

(1) establishes a new rule of law, applies an existing rule to a set of facts significantly different from those stated in published opinions, or modifies, or criticizes with reasons given, an existing rule;

(2) resolves or creates an apparent conflict in the law;

(3) involves a legal issue of continuing public interest; or

(4) makes a significant contribution to legal literature by reviewing either the development of a common law rule or the legislative or judicial history of a provision of a constitution, statute, or other written law.

(Subd (b) amended effective January 1, 1983; previously amended effective November 11, 1966, and January 1, 1972; adopted effective January 1, 1964.)

(c) [Publication procedure]

(1) *(Courts of Appeal and appellate departments)* An opinion of a Court of Appeal or an appellate department of the superior court shall be published if a majority of the court rendering the opinion certifies, prior to the decision's finality in that court, that it meets one or more of the standards of subdivision (b).

(2) *(Supreme Court)* An opinion certified for publication shall not be published, and an opinion not so certified shall be published, on an order of the Supreme Court to that effect.

(Subd (c) amended effective January 1, 1983; previously amended effective November 11, 1966, and January 1, 1972; adopted effective January 1, 1964.)

(d) [Superseded opinions] Unless otherwise ordered by the Supreme Court, no opinion superseded by a grant of review, rehearing, or other action shall be published. After granting review, after decision, or after dismissal of review and remand as improvidently granted, the Supreme Court may order the opinion of the Court of Appeal published in whole or in part.

(Subd (d) amended effective May 6, 1985; previously amended effective January 1, 1983; Subd (e) renumbered subd (d) effective January 1, 1972; adopted effective January 1, 1964.)

(e) [Editing] Written opinions of the Supreme Court, Courts of Appeal, and appellate departments of the superior courts shall be filed with the clerks of the respective courts. Two copies of each opinion of the Supreme Court, and two copies of each opinion of a Court of Appeal or of an appellate department of a superior court which the court has certified as meeting the standard for publication specified in subdivision (b) shall be furnished by the clerk to the Reporter of Decisions. The Reporter of Decisions shall edit the opinions for publication as directed by the Supreme Court. Proof sheets of each opinion in the type to be used in printing the reports shall be submitted by the Reporter of Decisions to the court which prepared the opinion for examination, correction and final approval.

(Subd (f) renumbered subd (e) effective January 1, 1972; previously amended effective November 11, 1966; adopted effective January 1, 1964.)

Rule 976 amended effective May 6, 1985; previously amended effective November 11, 1966, January 1, 1972, January 1, 1983; adopted by the Supreme Court effective January 1, 1964.

Rule 976.1. Partial publication experiment

(a) [Partial publication authorized] A majority of the court rendering an opinion may certify for publication any part of the opinion that meets the standard for publication specified under subdivision (b) of rule 976. The published part shall indicate that part of the opinion is unpublished. All material, factual and legal, that aids in the application or interpretation of the published part shall be in the published part.

(b) [Other rules applicable] For purposes of rules 976, 977, and 978, the published part of the opinion shall be treated as a published opinion, and the unpublished part as an unpublished opinion.

(c) [Copy to Reporter of Decisions] One extra copy of both the published and unpublished parts of the opinion shall be furnished by the clerk to the Reporter of Decisions.

Rule 976.1 amended effective January 1, 1984; adopted effective January 1, 1983.

Rule 977. Citation of opinions

(a) [Unpublished opinions] An opinion of a Court of Appeal or an appellate department of the superior court that is not certified for publication or ordered published shall not be cited or relied on by a court or a party in any other action or proceeding except as provided in subdivision (b).

(Subd (a) amended effective January 1, 1997.)

(b) [Exceptions] Such an opinion may be cited or relied on:

(1) when the opinion is relevant under the doctrines of law of the case, res judicata, or collateral estoppel; or

(2) when the opinion is relevant to a criminal or disciplinary action or proceeding because it states reasons for a decision affecting the same defendant or respondent in another such action or proceeding.

(Subd (b) amended effective January 1, 1983.)

(c) [Citation procedure] A copy of any opinion citable under subdivision (b) or of a cited opinion of any court that is available only in a computer-based source of decisional law shall be furnished to the court and all parties by attaching it to the document in which it is cited, or, if the citation is to be made orally, within a reasonable time in advance of citation.

(Subd (c) amended effective January 1, 1997.)

(d) [Opinions ordered published by Supreme Court] An opinion of the Court of Appeal ordered published by the Supreme Court pursuant to rule 976 is citable.*

(Subd (d) adopted effective May 6, 1985.)

Rule 977 amended effective January 1, 1997; adopted by the Supreme Court and by the Judicial Council effective January 1, 1974; previously amended effective January 1, 1983, and May 6, 1985.

* Any citation to the Court of Appeal opinion shall include reference to the grant of review and any subsequent action by the Supreme Court.

Rule 978. Requesting publication of unpublished opinions

(a) [Request procedure; action by court rendering opinion] A request by any person for publication of an opinion not certified for publication may be made only to the court that rendered the opinion. The request shall be made promptly

by a letter stating the nature of the person's interest and stating concisely why the opinion meets one or more of the publication standards. The request shall be accompanied by proof of its service on each party to the action or proceeding in the Court of Appeal. If the court does not, or by reason of the decision's finality as to that court cannot, grant the request, the court shall transmit the request and a copy of the opinion to the Supreme Court with its recommendation for disposition and a brief statement of its reasons. The transmitting court shall also send a copy of its recommendation and reasons to each party and to any person who has requested publication.

(Subd (a) amended effective July 1, 1997; adopted July 1, 1975; previously amended January 1, 1983, and July 1, 1992.)

(b) [Action by Supreme Court] When a request for publication is received by the Supreme Court pursuant to subdivision (a), the court shall either order the opinion published or deny the request. The court shall send notice of its action to the transmitting court, each party, and any person who has requested publication.

(Subd (b) amended effective January 1, 1983; adopted effective July 1, 1975.)

(c) [Effect of Supreme Court order for publication] An order of the Supreme Court directing publication of an opinion in the Official Reports shall not be deemed an expression of opinion of the Supreme Court of the correctness of the result reached by the decision or of any of the law set forth in the opinion.

(Adopted effective July 1, 1975.)

Rule 978 amended effective July 1, 1997; previously amended January 1, 1983, and July 1, 1992; adopted by the Supreme Court and by the Judicial Council effective July 1, 1975.

Drafter's Notes

1992—Rule 978 was amended to require that letters requesting publication of unpublished opinions be served on each party to the action in the Court of Appeal. Before the amendment, the rule merely required that copies of the letter be sent to all parties, but did not require formal service or proof of service.

Rule 979. Requesting depublication of published opinions

(a) [Request procedure] A request by any person for the depublication of an opinion certified for publication shall be made by letter to the Supreme Court within 30 days after the decision becomes final as to the Court of Appeal. Any request for depublication shall be accompanied by proof of mailing to the Court of Appeal and proof of service to each party to the action or proceeding.

The request shall state the nature of the person's interest and shall state concisely reasons why the opinion should not remain published. The request shall not exceed 10 pages.

(b) [Response] The Court of Appeal or any person may, within 10 days after receipt by the Supreme Court of a request for depublication, submit a response, either joining in the request or stating concisely reasons why the opinion should remain published. A response submitted by anyone other than the Court of Appeal shall state the nature of the person's interest. Any response shall not exceed 10 pages and shall be accompanied by proof of mailing to the Court of Appeal, and proof of service to each party to the action or proceeding, and person requesting depublication.

(Subd (b) amended effective July 1, 1997.)

(c) [Action by Supreme Court] When a request for depublication is received by the Supreme Court pursuant to subdivision (a), the court shall either order the opinion depublished or deny the request. The court shall send notice of its action to the Court of Appeal, each party, and any person who has requested depublication.

(d) [Limitation] Nothing in this rule limits the court's power, on its own motion, to order an opinion depublished.

(e) [Effect of Supreme Court order for depublication] An order of the Supreme Court directing depublication of an opinion in the Official Reports shall not be deemed an expression of opinion of the Supreme Court of the correctness of the result reached by the decision or of any of the law set forth in the opinion.

Rule 979 amended effective July 1, 1997; adopted effective July 1, 1990.

DIVISION IV. General Rules Applicable to All Courts

Title 3, Miscellaneous Rules—Division IV, General Rules Applicable to All Courts; Division adopted effective January 1, 1966.

Rule 980. Photographing, recording, and broadcasting in court
Rule 980.1. [Repealed 1984]
Rule 980.2. [Repealed 1984]
Rule 980.3. [Repealed 1997]
Rule 980.4. Sequential list of reporters

Rule 980. Photographing, recording, and broadcasting in court

(a) [Introduction] The judiciary is responsible for ensuring the fair and equal administration of justice. The judiciary adjudicates controversies, both civil and criminal, in accordance with established legal procedures in the calmness and solemnity of the courtroom. Photographing, recording, and broadcasting of courtroom proceedings may be permitted as circumscribed in this rule if executed in a manner that ensures that the fairness and dignity of the proceedings are not adversely affected. This rule does not create a presumption for or against granting permission to photograph, record, or broadcast court proceedings.

(Subd (a) adopted effective January 1, 1997.)

(b) [Definitions] For purposes of this rule,

(1) "Media coverage" means any photographing, recording, or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment;

(2) "Media" or "media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency;

(3) "Court" means the courtroom at issue, the courthouse, and its entrances and exits;

(4) "Judge" means the judicial officer or officers assigned to or presiding at the proceeding, except as provided in subdivision (e)(1) if no judge has been assigned.

(Subd (b) amended and relettered effective January 1, 1997; adopted effective July 1, 1984, as subd (a).)

(c) [Photographing, recording, and broadcasting prohibited] Except as provided in this rule, court proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit courts from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel.

(Subd (c) adopted effective January 1, 1997.)

(d) [Personal recording devices] The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall obtain permission from the judge in advance. The recordings shall not be used for any purpose other than as personal notes.

(Subd (d) amended and relettered effective January 1, 1997; adopted effective July 1, 1984, as subd (c).)

(e) [Media coverage] Media coverage shall be permitted only on written order of the judge as provided in this subdivision. The judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report court proceedings.

(1) *(Request for order)* The media may request an order on a form approved by the Judicial Council. The form shall be filed at least five court days before the portion of the proceeding to be covered unless good cause is shown. A completed, proposed order on a form approved by the Judicial Council shall be filed with the request. The judge assigned to the proceeding shall rule upon the request. If no judge has been assigned, the request shall be submitted to the judge supervising the calendar department, and thereafter be ruled upon by the judge assigned to the proceeding. The clerk shall promptly notify the parties that a request has been filed.

(2) *(Hearing)* The judge may hold a hearing on the request or rule on the request without a hearing.

(3) *(Factors to be considered by the judge)* In ruling on the request, the judge shall consider the following factors:

(i) Importance of maintaining public trust and confidence in the judicial system;

(ii) Importance of promoting public access to the judicial system;

(iii) Parties' support of or opposition to the request;

(iv) Nature of the case;

(v) Privacy rights of all participants in the proceeding, including witnesses, jurors, and victims;

(vi) Effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding;

(vii) Effect on the parties' ability to select a fair and unbiased jury;

(viii) Effect on any ongoing law enforcement activity in the case;

(ix) Effect on any unresolved identification issues;

(x) Effect on any subsequent proceedings in the case;

(xi) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;

(xii) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;

(xiii) Scope of the coverage and whether partial coverage might unfairly influence or distract the jury;

(xiv) Difficulty of jury selection if a mistrial is declared;

(xv) Security and dignity of the court;

(xvi) Undue administrative or financial burden to the court or participants;

(xvii) Interference with neighboring courtrooms;

(xviii) Maintaining orderly conduct of the proceeding;

(xix) Any other factor the judge deems relevant.

(4) *(Order permitting media coverage)* The judge ruling on the request to permit media coverage is not required to make findings or a statement of decision. The order may incorporate any local rule or order of the presiding or supervising judge regulating media activity outside of the courtroom. The judge may condition the order permitting media coverage

on the media agency's agreement to pay any increased court-incurred costs resulting from the permitted media coverage (for example, for additional court security or utility service). Each media agency shall be responsible for ensuring that all its media personnel who cover the court proceeding know and follow the provisions of the court order and this rule.

(5) *(Modified order)* The order permitting media coverage may be modified or terminated on the judge's own motion or upon application to the judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application shall be given to the parties and each media agency permitted by the previous order to cover the proceeding.

(6) *(Prohibited coverage)* The judge shall not permit media coverage of the following:

(i) Proceedings held in chambers;

(ii) Proceedings closed to the public;

(iii) Jury selection;

(iv) Jurors or spectators; and

(v) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the judge at the bench.

(7) *(Equipment and personnel)* The judge may require media agencies to demonstrate that proposed personnel and equipment comply with this rule. The judge may specify the placement of media personnel and equipment to permit reasonable media coverage without disruption of the proceedings.

Unless the judge in his or her discretion orders otherwise, the following rules shall apply:

(i) One television camera and one still photographer shall be permitted.

(ii) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.

(iii) An order permitting or requiring modification of existing sound or lighting systems is deemed to require that the modifications be installed, maintained, and removed without public expense or disruption of proceedings. Microphones and wiring shall be unobtrusively located in places approved by the judge and shall be operated by one person.

(iv) Operators shall not move equipment or enter or leave the courtroom while the court is in session, or otherwise cause a distraction.

(v) Equipment or clothing shall not bear the insignia or marking of a media agency.

(8) *(Media pooling)* If two or more media agencies of the same type request media coverage of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the judge may deny media coverage by that type of media agency.

(Subd (e) amended and relettered effective January 1, 1997; adopted effective July 1, 1984, as subd (b).)

(f) [Sanctions] Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law.

(Subd (f) amended and relettered effective January 1, 1997; adopted effective July 1, 1984, as subd (e).)

Rule 980 amended effective January 1, 1997; adopted effective July 1, 1984.

Former Rule

Former rule 980, similar to the present rule, was adopted effective January 1, 1966, amended effective January 1, 1977, and January 1, 1983, and repealed effective July 1, 1984.

Drafter's Notes

1984—The Judicial Council made permanent its previously experimental rule permitting radio, television, and photographic coverage of court proceedings. The action replaces rules 980, 980.1, 980.2, and 980.3 with a new rule 980 permitting courtroom photography and recording subject to

the consent of the judge and any restrictions the court may impose to protect the rights of the litigants, preserve the dignity of the court, and prevent disruption of the proceedings. Certain restrictions on coverage are made to protect confidential communications and jurors.

A request for coverage must be made a reasonable time before the proceeding. The request must be on a new Judicial Council form which also contains a proposed order. Copies of the form will be available from court clerks.

1996—This rule has been amended, *effective January 1, 1997,* to prohibit camera coverage of jury selection, jurors, or spectators in the courtroom. In other areas, including all pretrial hearings in criminal cases, judicial discretion is retained.

Rule 980.1. [Repealed 1984]

Rule 980.1 adopted effective July 1, 1974; repealed effective July 1, 1984. The repealed rule related to exceptions for studies approved by the Judicial Council.

Rule 980.2. [Repealed 1984]

Rule 980.2 adopted and amended effective June 1, 1980, and operative July 1, 1980, through June 30, 1981. Amended effective January 31, 1981, July 1, 1981, January 1, 1982, January 1, 1983, and January 1, 1984. Repealed effective July 1, 1984. The repealed rule related to experimental electronic and photographic coverage of court proceedings.

Rule 980.3. [Repealed 1997]

Rule 980.3 repealed effective January 31, 1997; adopted effective January 1, 1994. The former rule related to verbatim recording.

Former Rule

Former rule 980.3, relating to experimental extended coverage for educational use, was adopted and amended effective June 1, 1980, operative July 1, 1980, operative until June 30, 1981, amended effective July 1, 1981, January 1, 1982, January 1, 1983, January 1, 1984, and repealed effective July 1, 1984.

Drafter's Notes

1994—Rule 980.3 authorizes superior courts to use audio or video recording as a means of making the official verbatim record of oral proceedings in a civil matter when a court reporter is unavailable. Unavailability is defined to include, among other circumstances, when a court reporter is physically unavailable or when the court determines that the funds available for reporting services are insufficient to employ an official or pro tem reporter.

The rule also authorizes superior courts to use audio or video recording to make the verbatim record of oral proceedings in a criminal matter if there is no objection by the parties.

The rule does not mandate the replacement of official court reporters by electronic recording monitors. Rather, it is designed to give superior courts the necessary flexibility and authority to meet their obligation to maintain an adequate record of oral proceedings. The rule is consistent with a policy position adopted by the Trial Court Budget Commission that the courts of this state utilize the most cost-effective means of reporting their proceedings.

Rule 980.4. Sequential list of reporters

> During any reported court proceeding, the clerk shall keep a sequential list of all reporters working on the case, indicating the date the reporter worked and the reporter's name, business address, and Certified Shorthand Reporter license number. If more than one reporter reports a case during one day, the information pertaining to each reporter shall be listed with the first reporter designated "A," the second designated "B," etc. If reporter "A" returns during the same day, that reporter will be designated as both reporter "A" and reporter "C" on the list. The list of reporters may be kept in an electronic database maintained by the clerk; however, a hard copy shall be available to members of the public within one working day of a request for the list of reporters.

Rule 980.4 adopted effective July 1, 1991.

Drafter's Notes

1991—The council adopted rule 980.4 to require the courtroom clerk to keep sequential record of each reporter used during the course of a case. When a case is reported by more than one reporter, difficulty in identifying the different reporters can lead to delay. In September 1990, the lawyers, court reporters, justices, clerks and others attending the Conference on Appellate Delay Reduction endorsed a proposal to require courtroom clerks to keep a separate record of each reporter working on a case, arranged sequentially by date and day of a proceeding.

1992—Under rule 980.4, effective July 1, 1991, clerks are required to maintain a readily available list of the court reporters who work on each case.

Rules 1 and 31 were amended to require that list to be sent, along with the notification of filing of a notice of appeal, to the reviewing court (civil and criminal cases) and to the parties (civil cases only). For an interim period, this new requirement can be complied with only as to proceedings reported on or after July 1, 1991.

Rules 4, 35(b) and 124(d) were amended to direct the clerk to accept complete transcript portions, when the transcript is a week or more late, and to pay reporters who have completed all of their work on the case. This will keep diligent reporters from having their payments held up while the transcript awaits completion of the work by one or two slower reporters.

Rule 980.5. Electronic recording as official record of proceedings

(a) [Applicability] This rule is applicable when a court has ordered proceedings to be electronically recorded on a device of a type approved by the Judicial Council or conforming to specifications adopted by the Judicial Council.

(Subd (a) amended effective January 1, 1990; adopted effective January 1, 1976.)

(b) [Definitions] "Reel" means an individual reel or cassette of magnetic recording tape or a comparable unit of the medium on which an electronic recording is made. "Monitor" means any person designated by the court to operate electronic recording equipment, and to make appropriate notations to identify the proceedings recorded on each reel, including the date and time of the recording; the trial judge, a courtroom clerk or a bailiff may be the "monitor," but when recording is of sound only, a separate monitor without other substantial duties is recommended.

(Subd (b) amended effective January 1, 1990; adopted effective January 1, 1976.)

(c) [Reel numbers] Each reel shall be distinctively marked with the date recorded, the department number of the court, if any, and, if possible, a serial number.

(Subd (c) amended effective January 1, 1990; adopted effective January 1, 1976.)

(d) [Certificate of monitor] As soon as practicable after the close of each day's court proceedings, the monitor shall execute a certificate for each reel recorded during the day, setting forth:

(1) that the person executing the certificate was designated by the court as monitor;

(2) the number or other identification assigned to the reel;

(3) the date of the proceedings recorded on that reel;

(4) the titles and numbers of actions and proceedings, or portions thereof, recorded on the reel, and general nature of the proceedings;

(5) that the recording equipment was functioning normally, and that all of the proceedings in open court between designated times of day were recorded, except for such matters as were expressly directed to be "off the record" or as otherwise specified.

If two or more persons acted as monitors during the recording of a single reel, each shall execute a certificate as to the portion of the reel he monitored. The certificate of a person other than a judge, clerk, or deputy clerk of the court shall be in the form of an affidavit or declaration under penalty of perjury.

(Subd (d) amended effective January 1, 1990; adopted effective January 1, 1976.)

(e) [Storage] The monitor's certificate, the recorded reel and the monitor's notes shall be retained and safely stored by the clerk so as to provide for their convenient retrieval and use.

(Subd (e) adopted effective January 1, 1976.)

(f) [Transcripts] Written transcripts of electronic recordings may be made by or under the direction of the clerk or a person designated by the court. The person making the transcript shall execute an affidavit or declaration under penalty or perjury that:

(1) identifies the reel or reels transcribed, or the portions thereof, by reference to the numbers assigned thereto and, where only portions of a reel are transcribed, by reference to index numbers or other means of identifying the portion transcribed; and

(2) states that the transcript is a full, true, and correct transcript of the identified reel or reels or the designated portions thereof.

The transcript shall conform, as nearly as possible, to the requirements for a reporter's transcript as provided for in these rules.

(Subd (f) adopted effective January 1, 1976.)

(g) [Use of transcripts] A transcript prepared and certified as provided in the preceding subdivision, and accompanied by a certified copy of the monitor's certificate pertaining to each reel transcribed, is prima facie a true and complete record of the oral proceedings it purports to cover, and shall satisfy any requirement in these rules or in any statute for a reporter's transcript of oral proceedings.

(Subd (g) adopted effective January 1, 1976.)

(h) [Original reels] A reviewing court may order the transmittal to it of the original reels containing electronic recordings of proceedings being reviewed by it, or electronic copies of them.

(Subd (h) amended effective January 1, 1990; adopted effective January 1, 1976.)

(i) [Record on appeal] On stipulation of the parties approved by the reviewing court, the original reels or electronic copies of them may be transmitted as the record of oral proceedings without being transcribed, in which case the reels or copies satisfy the requirements in these rules or in any statute for a reporter's transcript. In the absence of that stipulation and approval, the appellant shall, within 10 days after filing a notice of appeal in a civil case, serve and file with the clerk directions indicating the portions of the oral proceedings to be transcribed and shall, at the same time, deposit with the clerk the approximate cost computed as set out in rule 4. Other steps necessary to complete preparation of the record on appeal shall be taken following, as nearly as possible, the procedures in rules 4 and 5. On receiving directions to have a transcript prepared, the clerk may have the material transcribed by a court employee, but should ordinarily send the reels in question to a professional recording service that has been certified by the federal court system or the Administrative Office of the Courts or verified by the clerk to be skilled in producing transcripts.

(Subd (i) amended effective January 1, 1993; adopted effective January 1, 1990.)

Rule 980.5 amended effective January 1, 1993; previously amended effective January 1, 1990; adopted effective January 1, 1976.

Note
The specifications for electronic recording equipment that previously appeared in a note following this section have been replaced by rule 980.6, effective January 1, 1990.

Drafter's Notes
1989—The council amended rule 980.5 to require video and audio recording tapes to be transcribed in the absence of a stipulation.

It also adopted new rule 980.6 to restate in rule form the audio recording equipment specifications previously adopted by the council and to adopt video recording equipment specifications.

1993—The council amended rule 980.5(i) to conform to rule 4 to require a deposit of the approximate cost of the transcript at the time the designation is filed.

Rule 980.6. Specifications for electronic recording equipment

(a) [Specifications mandated] Electronic recording equipment used in making the official verbatim record of oral courtroom proceedings shall conform to the specifications in this rule.

(Subd (a) adopted effective January 1, 1990.)

(b) [Sound recording only] The following specifications for electronic recording devices and appurtenant equipment apply when only sound is to be recorded:

(1) The device is capable of simultaneously recording at least four separate channels or "tracks," each of which has a separate playback control so that any one channel separately or any combination of channels may be played back.

(2) The device does not have an operative erase head.

(3) The device has a digital counter or comparable means of logging and locating the place on a reel where specific proceedings took place.

(4) Earphones are provided for monitoring the recorded signal.

(5) The signal going to the earphones comes from a separate playback head, so that the monitor will hear what has actually been recorded on the tape.

(6) The device is capable of recording at least two hours without interruption. This requirement may be satisfied by a device which automatically switches from one recording deck to another at the completion of a reel of tape less than two hours in duration.

(7) A separate visual indicator of signal level is provided for each recording channel.

(8) The appurtenant equipment includes at least four microphones, which should include one at the witness stand, one at the bench, and one at each counsel table. All microphones should be directional (cardioid) in the absence of unusual circumstances.

(9) A loudspeaker is provided for courtroom playback.

The following features are recommended, but not required:

(10) Recording level control should be automatic rather than manual.

(11) The device should be equipped to prevent recording over a previously recorded segment of tape.

(12) The device should give a warning signal at the end of a reel of tape.

(Subd (b) adopted effective January 1, 1990.)

(c) [Audio-and-video recording] The following specifications for electronic audio-video recording devices and appurtenant equipment apply when audio and video are to be recorded simultaneously. The system shall include:

(1) At least five charge-coupled-device color video cameras in fixed mounts, equipped with lenses appropriate to the courtroom. Cameras shall conform to EIA standard, accept C-mount lenses, have 2000 lux sensitivity at f4.0 at 3200 degrees Kelvin so as to produce an adequate picture with 30 lux minimum illumination and an f1.4 lens, and be approximately 2.6” x 2.4” x 8.0”.

(2) At least eight phase coherent cardioid (directional) microphones, Crown PCC-160 or equivalent, appropriately placed.

(3) At least two VHS videotape recorders with hi-fi sound on video, specially modified to record 4 channels of audio, 2 linear channels with Dolby noise reduction and 2 hi-fi sound on video channels, capable of recording up to 6 hours on T-120 cassettes, modified to prevent automatic rewind at end of tape, and wired for remote control. The two shall simultaneously record the same audio and video signals, as selected by the audio-video mixer.

(4) A computer controlled audio-video mixer and switching system which performs the functions of

(i) automatically selecting for the VCRs, the signal from the video camera that is associated with the active microphone;

(ii) comparing microphone active signal to ambient noise signal so that microphones are recorded only when a person is speaking, and so that only the microphone nearest a speaker is active, thus minimizing recording of ambient noise.

(5) A sound system that serves both as a sound reinforcement system while recording is in progress, and a playback amplification system, integrated with other components to minimize feedback.

(6) A time-date generator that is active and recorded at all times the system is recording.

(7) A color monitor.

(8) Appropriate cables, distribution amplifiers, switches and the like.

(9) The system shall produce

(i) a signal visible to the judge, the in-court clerk, and counsel indicating that the system is recording;

(ii) an audible signal at end-of-tape or if the tape jams while the controls are set to record; and

(iii) blanking of the judge's bench monitor when the system is not actually recording.

The system should normally include:

(10) A chambers camera and microphone or microphones which, when in use, will override any signals originating in the courtroom, and which will be inactivated when not in use.

(11) Two additional video cassette recorders that will produce tapes with the same video and audio as the main two, but may have fewer channels of sound, for the use of parties in cases recorded.

(Subd (c) adopted effective January 1, 1990.)

(d) [Substantial compliance] A sound or video and sound system that conforms to these specifications substantially is approved, if the deviation does not significantly impair a major function of the system. Subdivision (c)(4)(ii) is one of the specifications from which deviation is permissible, if the system produces adequate sound quality.

(Subd (d) adopted effective January 1, 1990.)

(e) [Previous equipment] The Administrative Director of the Courts is authorized to approve any electronic recording devices and equipment acquired prior to the adoption or amendment of this rule that has been found by the court to produce satisfactory recordings of proceedings.

(Subd (e) adopted effective January 1, 1990.)

Rule 980.6 adopted effective January 1, 1990.

Note
Subdivision (b) is a restatement in rule form of the specifications for audio recording equipment adopted by order of the Judicial Council effective January 1, 1976.

Drafter's Notes
1989—The council amended rule 980.5 to require video and audio recording tapes to be transcribed in the absence of a stipulation.

It also adopted new rule 980.6 to restate in rule form the audio recording equipment specifications previously adopted by the council and to adopt video recording equipment specifications.

Rule 981. Local court rules—adopting, filing, distributing, and maintaining

(a) [Definitions] As used in this rule:

(1) "Court" means a trial court; and

(2) "Local rule" means every rule, regulation, order, policy, form, or standard of general application adopted by a court to govern practice or procedure in that court or by a judge of the court to govern practice or procedure in that judge's courtroom.

(Subd (a) amended and relettered effective July 1, 1999; adopted effective July 1, 1991, as subd (b); repealed as [Applicability] effective July 1, 1999.)

(b) [Local inspection and copying of rules] Each court must make its local rules available for inspection and copying in every location of the court that generally accepts filing of papers. The court may impose a reasonable charge for copying the rules and may impose a reasonable page limit on copying. The rules must be accompanied by a notice indicating where a full set of the rules may be purchased or otherwise obtained.

(Subd (b) amended effective January 1, 2003; adopted as subd (c) effective July 1, 1991; relettered effective July 1, 1999.)

(c) [Publication of rules]

(1) Each court executive officer must be the official publisher of the court's local rules unless the court, by a majority vote of the judges, appoints another public agency or a private company.

(2) The official publisher must have the local rules reproduced and make copies available for distribution to attorneys and litigants.

(3) The court must adopt rules in sufficient time to permit reproduction of the rules by the official publisher before the effective date of the changes.

(4) The official publisher may charge a reasonable fee.

(5) Within 30 days of selecting an official publisher or changing an official publisher, each court must notify the Judicial Council of the name, address, and telephone number of the official publisher. Within 30 days of a change in the cost of the rules, each court must notify the Judicial Council of the charge for the local rules. This information will be published annually by the Judicial Council.

(Subd (c) amended effective January 1, 2003; adopted as subd (d) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(d) [Filing rules with Judicial Council]

(1) Thirty days before the effective date of January 1 or July 1, each court must file with the Judicial Council an electronic copy of rules and amendments to rules adopted by the court in a format authorized by the Judicial Council.

(2) The filing must be accompanied by a certificate from the presiding judge or court executive officer stating that (1) the court has complied with the applicable provisions of this rule; (2) the court does or does not post local rules on the court's Web site; and (3) the court does or does not provide assistance to members of the public in accessing the Internet or the court has delegated to and obtained the written consent of the county law librarian to provide public assistance under subdivision (e).

(3) Rules that do not comply with this rule will not be accepted for filing by the Judicial Council.

(Subd (d) amended effective January 1, 2003; adopted as subd (e) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(e) [Deposit and maintenance of rules statewide for public inspection]

(1) The Judicial Council must publish a list of courts that have filed rules and amendments to rules with the Judicial Council. The Judicial Council must deposit a paper copy of each rule and amendment in the office of the executive officer of each superior court that does not provide assistance to members of the public in accessing the Internet or has not obtained agreement from the county law librarian to provide assistance under this subdivision.

(2) The executive officer must make a complete current set of local rules and amendments available for public examination either in paper copy or through the Internet with public assistance. In a county maintaining an organized county law library, if the executive officer is satisfied that the rules and amendments will be maintained as required by this paragraph, the executive officer, with the approval of the superior court and the written consent of the county law librarian, may delegate the authority to the county law librarian to (1) receive and maintain paper copies of the rules and amendments, or (2) make the rules and amendments available through the Internet with assistance to members of the public.

(3) On or before January 1 of each year, the executive officer of each court must notify the Judicial Council of the street address and room number of the place the rules are maintained under this subdivision.

(Subd (e) amended effective January 1, 2003; adopted as subd (f) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(f) [Form]

(1) Paper copies may be typewritten or printed or produced by other process of duplication at the option of the court. Electronic rules must be prepared in a format authorized by the Judicial Council. All copies must be clear and legible.

(2) Paper copies must conform, as far as is practicable, to the requirements of subdivision (b) of rule 201 except that both sides of the paper may be used, lines need not be numbered and may be single spaced, and the pages must not be permanently bound across the top but may be bound at the left side. ("Permanently bound" does not include binding with staples.)

The left margin on the front and the right margin on the reverse must be at least one inch. The name of the court must be at the top of each page. The effective date of each rule and amended rule must be stated in parentheses following the text of the rule.

(3) New pages must be issued for added, repealed, or amended rules, with a list of currently effective rules and the date of adoption or of the latest amendment to each rule. Filing instructions must accompany each set of replacement pages.

(4) The rules must have a table of contents. The rules must list all local forms and indicate whether their use is mandatory or optional. If the total length of the court rules exceeds five pages, the rules must have an alphabetical subject matter index at the end of the rules. All courts must use any subject matter index the Judicial Council may have specified.

(Subd (f) amended effective January 1, 2003; adopted as subd (g) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(g) [Comment period for proposed rules]

(1) *(Timing)* Except for rules specifying the time of hearing and similar calendaring matters, the court must distribute each proposed rule for comment at least 45 days before it is adopted.

(2) *(Organizations)* A proposed rule must be distributed for comment to the following organizations in each county located within a 100-mile radius of the county seat of the county in which the court is located:

(A) Civil rules to the county bar association in each county, the nearest office of the State Attorney General, and the county counsel in each county;

(B) Criminal rules to the county bar association in each county, the nearest office of the State Attorney General, the district attorney in each county, and the public defender in each county; and

(C) Upon request, any bar organization, newspaper, or other interested party.

(3) *(Methods)* A court may distribute a proposed rule for comment by one of the following methods:

(A) Distributing a copy of the proposal to every organization listed in subdivision (g)(2), or

(B) Posting the proposal on the court's Web site and distributing to every organization listed in subdivision (g)(2) a notice that the proposed rule has been posted for comment and that a hard copy of the proposal is available on request.

(Subd (g) amended effective January 1,2003; adopted as subd (h) effective July 1, 1991; relettered effective July 1, 1999.)

(h) [Periodic review] Each court must periodically review its local rules and repeal rules that have become outdated, unnecessary, or inconsistent with statewide rule or statute.

(Subd (h) amended effective January 1, 2003; adopted as subd (i) effective July 1, 1991; relettered effective July 1, 1999.)

(i) [Alternative effective date] A court may adopt a rule to take effect on a date other than as provided by Government Code section 68071 if:

(1) The presiding judge submits to the Judicial Council the proposed rule and a statement of reasons constituting good cause for making the rule effective on the stated date;

(2) The Chair of the Judicial Council authorizes the rule to take effect on the date proposed; and

(3) The rule is made available for inspection as provided in subdivision (b) on or before the effective date.

(Subd (i) amended effective July 1, 2001; adopted effective January 1, 1993, as subd (j); relettered effective July 1, 1999.)

(j) [Limitation] Except for subdivision (i), this rule does not apply to local rules that relate only to the internal management of the court.

(Subd (j) amended effective July 1, 2001; adopted effective July 1, 1999.)

Rule 981 amended effective January 1, 2003; adopted effective July 1, 1991; previously amended effective January 1, 1993, July 1, 1999, and July 1, 2001.

Former Rule
Former rule 981, relating to filing, distributing, and maintaining local court rules, was adopted effective January 1, 1969, amended effective July 1, 1978, July 1, 1984, and repealed effective July 1, 1991.

Drafter's Notes
1993—The Legislature, under sponsorship of the council, passed an amendment to Government Code section 68071 that restricted a rule from taking effect other than on January 1 or July 1 and authorized the council to create a procedure for exceptions to this requirement. In response to the legislation, the council adopted an amendment to rule 981 to permit an exception if the court stated reasons for the alternative effective date and the Chair of the Judicial Council authorized the alternative date.

1999—Amended rule 981 requires local rules to have a table of contents and a list of forms. The number of copies of local rules that must be provided to the Judicial Council is increased from 75 to 80.

2001—Rule 981 was amended to (1) allow the procedure for alternative effective dates to apply to rules on internal court management and (2) correct a reference to a subdivision that was relettered.

Rule 981.1 Preemption of local rules

(a) [Fields occupied] The Judicial Council preempts local court rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and form and format of papers. No trial court, or any division or branch of a trial court, shall enact or enforce any local rule concerning these fields. All local rules concerning these fields are null and void as of the effective date of this rule unless otherwise permitted or required by statute or Judicial Council rule.

(Subd (a) amended effective July 1, 2000; adopted effective July 1, 1997, as untitled subdivision.)

(b) [Applicability] This rule applies to all matters identified above except: (i) trial and post-trial proceedings including but not limited to motions in limine (see rule 312(d)); (ii) proceedings under Code of Civil Procedure sections 527.6, 527.7, and 527.8, the Family Code, the Probate Code, the Welfare and Institutions Code, and the Penal Code, and all other criminal proceedings; (iii) eminent domain proceedings; and (iv) local court rules adopted under the Trial Court Delay Reduction Act.

(Subd (b) amended effective January 1, 2002; adopted effective July 1, 2000; previously amended effective July 1, 2000.)

Rule 981.1 amended effective January 1, 2002; adopted as rule 302 effective July 1, 1997 (rule 302 repealed effective July 1, 2000); previously amended and renumbered effective July 1, 2000.

Drafter's Notes:
2002—This amendment eliminates subdivision (c), which provided temporary exceptions for certain local rules (class actions, receivership proceedings) while statewide rules were being developed and is now obsolete, but retains an exception for local rules for eminent domain cases in subdivision (b).

Rule 981.5. Electronic filing and forms generation

(a) [Applicability] This rule applies to Judicial Council forms in any court participating in a pilot project for electronic filing or electronic generation of court documents.

(b) [Definitions]

(1) "Electronic filing" is the electronic transmission to or from a court of information contained in a Judicial Council form that is required in case processing, provided that the information is readable upon receipt.

(2) "Electronic generation of a court document" is the electronic generation by a court of a Judicial Council form for an order, notice, judgment, or other document.

(c) [Electronic filing and forms generation pilot projects; conditions] Any court that accepts electronic filings or provides electronic generation of court documents may modify Judicial Council forms for that purpose if its pilot project conforms to section 37 of the California Standards of Judicial Administration. Any court participating in an electronic filing pilot project shall send notice of the project to the Court Technology Advisory Committee and submit further informational reports as requested by the committee.

(d) [Equality of electronic and paper filings] In a court conducting a pilot project, filing requirements applicable to a form referenced in this rule may be satisfied by electronic filing. Pilot projects must accommodate paper filing, but no paper form is required if an electronic form is filed.

(e) [Fees] Before electronically filing a Judicial Council form, a filer is responsible for meeting the court's requirements for payment of any filing fee.

(f) [Expiration date] Rule 981.5 is repealed January 1, 2003.

Rule 981.5 adopted effective July 1, 2001.

Drafter's Notes
2001—Rule 981.5 was adopted in 1998 to allow a number of courts to develop electronic filing pilot projects that would test alternative approaches and provide experience that would assist the Court Technology Advisory Committee in developing permanent electronic filing rules. The rule was repealed by its own terms on January 1, 2001. The rule is reinstated and the expiration date extended to January 1, 2003, to allow trial courts sufficient time to complete pilot projects and report their results to the Court Technology Advisory Committee. On that date, new rules drafted by the committee in response to Code of Civil Procedure section 1010.6(b), which requires the Judicial Council to adopt uniform electronic filing rules, will become effective.

Rule 982. [Renumbered 2003]

Rule 982 amended and renumbered rule 201.1 effective Janaury 1, 2003.

Rule 982.1. [Renumbered 2003]

Rule 982.1 amended and renumbered rule 201.2 effective Janaury 1, 2003.

Rule 982.2. Case cover sheet required

(a) [Cover sheet required] The first paper filed in an action or proceeding must be accompanied by a case cover sheet as required in (b). The cover sheet must be on a form prescribed by the Judicial Council and must be filed in addition to any cover sheet required by local court rule. If the plaintiff indicates on the cover sheet that the case is complex under rule 1800 et seq., the plaintiff must serve a copy of the cover sheet with the complaint. In all other cases, the plaintiff is not required to serve the cover sheet. The cover sheet is used for statistical purposes and may affect the assignment of a complex case.

(Subd (a) amended effective January 1, 2002; previously amended January 1, 2000.)

(b) [List of cover sheets]

(1) Civil Case Cover Sheet (form 982.2(b)(1)) — required in each civil action or proceeding, except those filed in small claims court or filed under the Probate Code, Family Law Code, or Welfare and Institutions Code.

(2) [**Note:** Case cover sheets will be added for use in additional areas of the law as the data collection program expands.]

(c) [Failure to provide cover sheet] If a party that is required to provide a cover sheet under this rule or a similar local rule fails to do so or provides a defective or incomplete cover sheet at the time the party's first paper is submitted for filing, the clerk of the court must file the paper. Failure of a party or a party's counsel to file a cover sheet as required by this rule may subject that party, its counsel, or both, to sanctions under rule 227.

(Subd (c) adopted effective January 1, 2002.)

Rule 982.2 amended effective January 1, 2002; adopted effective July 1, 1996; previously amended effective January 1, 2000.

Drafter's Notes
1996—The council adopted form 982.2(b)(1) (Civil Case Cover Sheet) that mandates the use of a Civil Case Cover Sheet in all new civil filings.

2000—Amended rule 982.2 and revised *Civil Case Cover Sheet* (Form 982.2(b)(1)) implement rules 1810 through 1812 and allow a party to designate an action as a complex case.

2002—The amended rule specifies that, if a party fails to file a *Civil Case Cover Sheet* with its first papers, the clerk must file the papers, and that the failure of a party or the party's counsel to file a cover sheet may subject that party, its counsel, or both, to sanctions.

Rule 982.4. [Repealed 2001]

Rule 982.4 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes
1998—Rule 982.4 was adopted to implement two new forms for mandatory use in implementing the voting procedure.

2001—All California courts were unified as of February 8, 2001. This rule, along with rules 701–708, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 982.5. [Repealed 1999]

Rule 982.5 repealed effective July 1, 1999; previously amended effective January 1, 1990, April 1, 1990, and January 1, 1993.

Drafter's Notes
1999—Amended rules 982, 982.1, and 982.9; (1) identify clearly whether forms are mandatory or optional, (2) require publication of a list identifying mandatory and optional forms as an appendix

to the rules, (3) clarify what changes local courts may make to the forms, and (4) make other clarifications on use of legal forms. Rules 982.5 and 982.7, containing partial lists of mandatory and optional forms, are repealed and replaced by an appendix that identifies which forms are mandatory.

Rule 982.6. [Repealed 1985]

Adopted effective July 1, 1983. Amended effective January 1, 1985. Expired effective December 31, 1985.

Rule 982.7. [Repealed 1999]

Rule 982.7 repealed effective July 1, 1999; previously amended effective January 1, 1990, July 1, 1992, January 1, 1997, and January 1, 1998.

Note

Chapter 5A, entitled "Small Claims Court," consisting of §§116-117.24, was repealed by Stats. 1990, ch. 1305, §2. CCP §§116.110 et seq., referred to in this rule, are located under chapter 5.5 of title 1 of part 1.

Drafter's Notes

1992—Rule 982.7 was amended to reflect the repeal of unlawful detainer forms for use in small claims court and to authorize the Administrative Director of the Courts to make technical changes to the list of forms in rule 982.7 as needed to conform the rule to the council's actions on forms for use in small claims court.

1997—Rule 982.7, which lists the mandatory and optional small claims forms, was amended to add two new mandatory forms and to correct the omission of one optional form.

1998—This rule was amended to add *Application and Order to Appear for Examination* (SC-134) to the list of mandatory small claims forms.

1999—Amended rules 982, 982.1, and 982.9; (1) identify clearly whether forms are mandatory or optional, (2) require publication of a list identifying mandatory and optional forms as an appendix to the rules, (3) clarify what changes local courts may make to the forms, and (4) make other clarifications on use of legal forms. Rules 982.5 and 982.7, containing partial lists of mandatory and optional forms, are repealed and replaced by an appendix that identifies which forms are mandatory.

Rule 982.8. [Repealed 2001]

Rule 982.8 repealed effective January 1, 2001; adopted effective January 1, 1994. See rules 6.751, 6.755, and 6.756.

Rule 982.8A. [Repealed 2001]

Rule 982.8A repealed effective January 1, 2001; adopted effective January 1, 1995. See rules 6.751, 6.755, and 6.756.

Rule 982.9. Typewritten proof of service forms

(a) [Typewritten forms; conditions] Notwithstanding mandatory form 982(a)(23), a *Proof of Service (Summons)* form prepared entirely by typewriter, word processor printer, or similar process may be used for proof of service in any applicable action or proceeding if the following conditions are met:

(1) Rules 201 and 501 shall be observed except as otherwise provided in this rule, but numbered lines shall not be required.

(2) The left, right, and bottom margins shall be at least one-half inch. The top margin shall be at least three-quarters of an inch. The typeface shall be Times, Courier, or an equivalent roman typeface not smaller than 12 points. Text shall be single spaced and a blank line shall precede each main numbered item.

(3) The title and all text of form 982(a)(23) not accompanied by a checkbox shall be copied word for word. All relevant text that is optional (accompanied by a checkbox) shall be copied word for word except that the checkboxes shall not be copied. The Judicial Council number of *Proof of Service (Summons)* shall be typed as follows either in the left margin of the first page opposite the last line of text or at the bottom of each page: "Judicial Council Form 982(a)(23)."

(4) The text of form 982(a)(23) shall be copied in the same order as it appears on the printed form using the same item numbers. A declaration of diligence may be attached or inserted as item 3b(5). Areas marked "For Court Use" shall be copied in the same general locations and occupy approximately the same amount of space as on the printed form.

(5) The telephone number shall appear flush with the left margin after the address of the attorney or party on the same line with any reference or file number.

(6) The name of the court shall be flush with the left margin. The address of the court shall not be required.

(7) The instructions found on the printed form shall not be copied.

(8) Material that would have been typed onto the printed form shall be typed with each line indented three inches from the left margin. This requirement shall not apply to items 1 and 5 of the form.

(9) The material in item 5 of the form may be arranged in two columns.

(Subd (a) amended effective July 1, 1999; previously amended effective July 1, 1985, January 1, 1986, and January 1, 1987.)

(b) [Compliance with rule] The act of filing a form under this rule constitutes a certification by a party or attorney that the form complies with this rule and is a true and correct copy of the form to the extent required by this rule.

(Subd (b) amended effective July 1, 1999; previously amended effective July 1, 1985, relettered effective January 1, 1986, amended effective January 1, 1987, and January 1, 1988.)

(c) [Repealed 1999]

(Subd (c) repealed effective July 1, 1999; relettered effective January 1, 1986; adopted effective January 1, 1985.)

(d) [Repealed 1999]

(Subd (d) repealed effective July 1, 1999; previously amended and relettered effective January 1, 1986; adopted effective January 1, 1985.)

Rule 982.9 amended effective July 1, 1999; previously amended January 1, 1989.

Drafter's Notes

1988—The council amended rule 982.9 to extend indefinitely the use of computer- and word processor-printed proof of service of summons forms. Experimental use of computer- and word processor-printed family law forms will end in two years.

1999—Amended rules 982, 982.1, and 982.9 (1) identify clearly whether forms are mandatory or optional, (2) require publication of a list identifying mandatory and optional forms as an appendix to the rules, (3) clarify what changes local courts may make to the forms, and (4) make other clarifications on use of legal forms. Rules 982.5 and 982.7, containing partial lists of mandatory and optional forms, are repealed and replaced by an appendix that identifies which forms are mandatory.

Rule 983. Counsel *pro hac vice*

(a) [Eligibility] A person who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of

any United States court or the highest court in any state, territory or insular possession of the United States, and who has been retained to appear in a particular cause pending in a court of this state, may in the discretion of such court be permitted upon written application to appear as counsel *pro hac vice*, provided that an active member of the State Bar of California is associated as attorney of record. No person is eligible to appear as counsel *pro hac vice* pursuant to this rule if

(1) he is a resident of the State of California, or

(2) he is regularly employed in the State of California, or

(3) he is regularly engaged in substantial business, professional, or other activities in the State of California.

Absent special circumstances, repeated appearances by any person pursuant to this rule shall be a cause for denial of an application.

(Subd (a) adopted effective September 13, 1972.)

(b) [Application; notice of hearing] A person desiring to appear as counsel *pro hac vice* in a superior, municipal, or justice court shall file with the court a verified application together with proof of service by mail in accordance with section 1013a of the Code of Civil Procedure of a copy of the application and of the notice of hearing of the application upon all parties who have appeared in the cause and upon the State Bar of California at its San Francisco office. The notice of hearing shall be given at the time prescribed in section 1005 of the Code of Civil Procedure unless the court has prescribed a shorter period.

An application to appear as counsel *pro hac vice* in the Supreme Court or a Court of Appeal shall be made as provided in rule 41, with proof of service upon all parties who have appeared in the cause and upon the State Bar of California at its San Francisco office.

The application shall state:

(1) the applicant's residence and office address;

(2) the courts to which the applicant has been admitted to practice and the dates of admission;

(3) that the applicant is a member in good standing in those courts;

(4) that the applicant is not currently suspended or disbarred in any court;

(5) the title of court and cause in which the applicant has filed an application to appear as counsel *pro hac vice* in this state in the preceding two years, the date of each application, and whether or not it was granted; and

(6) the name, address, and telephone number of the active member of the State Bar of California who is attorney of record.

(Subd (b) amended effective March 15, 1991; previously amended by the Supreme Court effective September 13, 1972, October 3, 1973, September 3, 1986, and January 17, 1991.)

(c) [Fee] An applicant for permission to appear as counsel *pro hac vice* pursuant to this rule shall pay a reasonable fee not exceeding $50 to the State Bar of California with the copy of the application and the notice of hearing that is served upon the State Bar. The amount of the fee shall be fixed by the Board of Governors of the State Bar of California

(1) to defray the expenses of administering the provisions of this rule which are applicable to the State Bar and the incidental consequences resulting from such provisions, and

(2) partially to defray the expenses of administering the board's other responsibilities to enforce the provisions of the State Bar Act relating to the competent delivery of legal services and the incidental consequences resulting therefrom.

(Subd (c) adopted effective September 3, 1986.)

(d) [Contempt and other court sanctions; discipline] A person permitted to appear as counsel *pro hac vice* pursuant to this rule shall be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California. He shall familiarize himself and comply with the standards of professional conduct required of members of the State Bar of California and shall be subject to the disciplinary jurisdiction of the State Bar with respect to any of his acts occurring in the course of such appearance. Article 5, Chapter 4, Division III of the California Business and Professions Code and the Rules of Procedure of the State Bar shall govern in any investigation or proceeding conducted by the State Bar under this rule.

(Subd (d) as relettered effective September 3, 1986; adopted effective September 13, 1972.)

(e) This rule does not preclude the Supreme Court or a Court of Appeal from permitting argument in a particular case from a person who is not a member of the State Bar, but who is licensed to practice in another jurisdiction and who possesses special expertise in the particular field affected by the proceeding.

(Subd (e) as relettered effective September 3, 1986; adopted effective September 13, 1972.)

Rule 983 amended effective March 15, 1991; previously amended effective January 17, 1991, September 3, 1986, October 3, 1973; adopted by the Supreme Court effective September 13, 1972.

Rule 983.1. Appearances by military counsel

(a) A judge advocate (as that term is defined at 10 United States Code section 801(13)) who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or of the highest court in any state, territory, or insular possession of the United States may, in the discretion of a court of this state, be permitted to appear in that court to represent a person in the military service in a particular cause pending before that court, pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, 50 United States Code Appendix section 501 et seq., if:

(1) the judge advocate has been made available by the cognizant Judge Advocate General (as that term is defined at 10 United States Code section 801(1)), or a duly designated representative; and

(2) the court finds that retaining civilian counsel likely would cause substantial hardship for the person in military service or that person's family; and

(3) the court appoints a judge advocate as attorney to represent the person in military service pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940.

Under no circumstances is the determination of availability of a judge advocate to be made by any court within this state, or reviewed by any court of this state. In determining the likelihood of substantial hardship as a result of the retention of civilian counsel, the court may take judicial notice of the prevailing pay scales for persons in the military service.

(b) The clerk of the court considering appointment of a judge advocate pursuant to this rule shall provide written notice of that fact to all parties who have appeared in the cause. A copy of the notice, together with proof of service by mail in accordance with section 1013a of the Code of Civil Procedure, shall be filed by the clerk of the court. Any party who has appeared in the matter may file a written objection to the appointment within 10 days of the date on which notice was given unless the court has prescribed a shorter period. If the court determines to hold a hearing in relation to the appointment, notice of the hearing shall be given at least 10 days before the date designated for the hearing unless the court has prescribed a shorter period.

(c) A judge advocate permitted to appear pursuant to this rule 983.1 shall be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California. The judge advocate shall become familiar with and comply with the standards of professional conduct required of members of the State Bar of California and shall be subject to the disciplinary jurisdiction of the State Bar of California. Division 3, chapter 4, article 5 of the California Business and Professions Code and the Rules of Procedure of the State Bar of California shall govern any investigation or proceeding conducted by the State Bar under this rule.

(d) A judge advocate permitted to appear pursuant to this rule shall be subject to rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges to the same extent as a member of the State Bar of California.

Rule 983.1 adopted by the Supreme Court effective Feb. 19, 1992; adopted by the Judicial Council effective Feb. 21, 1992.

Rule 983.2. Certified law students

(a) **[Definition]** A certified law student is a law student who has a currently effective certificate of registration as a certified law student from the State Bar.

(b) **[State Bar certified law student program]** The State Bar shall establish and administer a program for registering law students under rules adopted by the Board of Governors of the State Bar.

(c) **[Eligibility for certification]** To be eligible to become a certified law student, an applicant must:

(1) Have successfully completed one full year of studies (minimum of 270 hours) at a law school accredited by the American Bar Association or the State Bar of California, or both, or have passed the first year law students' examination;

(2) Have been accepted into, and be enrolled in, the second, third, or fourth year of law school in good academic standing or have graduated from law school, subject to the time period limitations set forth in the rules adopted by the Board of Governors of the State Bar; and

(3) Have either successfully completed or be currently enrolled in and attending academic courses in evidence and civil procedure.

(d) [Permitted activities] Subject to all applicable rules, regulations, and statutes, a certified law student may:

(1) Negotiate for and on behalf of the client subject to final approval thereof by the supervising attorney and/or give legal advice to the client, provided that the certified law student:

(i) Obtains the approval of the supervising attorney to engage in the activities;

(ii) Obtains the approval of the supervising attorney regarding the legal advice to be given or plan of negotiation to be undertaken by the certified law student; and

(iii) Performs the activities under the general supervision of the supervising attorney;

(2) Appear on behalf of the client in depositions, provided that the certified law student:

(i) Obtains the approval of the supervising attorney to engage in the activity;

(ii) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney); and

(iii) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student;

(3) Appear on behalf of the client in any public trial, hearing, arbitration, or proceeding, or before any arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, to the extent approved by such arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, provided that the certified law student:

(i) Obtains the approval of the supervising attorney to engage in the activity;

(ii) Performs the activity under the direct and immediate supervision and in the personal presence of the supervising attorney (or, exclusively in the case of government agencies, any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney);

(iii) Obtains a signed consent form from the client on whose behalf the certified law student acts (or, exclusively in the case of government agencies, from the chief counsel or prosecuting attorney) approving the performance of such acts by such certified law student or generally by any certified law student; and

(iv) As a condition to such appearance, either first presents, or have previously presented, a copy of the consent form to the arbitrator, court, public agency, referee, magistrate, commissioner, or hearing officer, or files a copy of the consent form in the court case file; and

(4) Appear on behalf of a government agency in the prosecution of criminal actions classified as infractions or other such minor criminal offenses with a maximum penalty or a fine equal to the maximum fine for infractions in California, including any public trial:

(i) Subject to approval by the court, commissioner, referee, hearing officer, or magistrate presiding at such public trial; and

(ii) Without the personal appearance of the supervising attorney or any deputy, assistant, or other staff attorney authorized and designated by the supervising attorney, but only if the supervising attorney or the designated attorney has approved in writing the performance of such acts by the certified law student and is immediately available to attend the proceeding.

(e) [Failure to comply with program] A certified law student who fails to comply with the requirements of the certified law student program of the State Bar shall have his or her certification withdrawn under rules adopted by the Board of Governors of the State Bar.

(f) [Fee and penalty] The State Bar shall have the authority to set and collect appropriate fees and penalties for this program.

(g) [Inherent power of Supreme Court] Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

Rule 983.2 adopted by the Supreme Court of California effective December 29, 1993.

Rule 983.4. Out-of-State Attorney Arbitration Counsel

(a) [Definition]

(1) An "Out-of-State Attorney Arbitration Counsel" is an attorney who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest court in any state, territory or insular possession of the United States, and who has been retained to appear in the course of, or in connection with, an arbitration proceeding in this state; and

(2) has served a certificate in accordance with the requirements of Code of Civil Procedure section 1282.4 upon the arbitrator, the arbitrators, or the arbitral forum, the State Bar of California, and all other parties and counsel in the arbitration whose addresses are known to the attorney; and

(3) whose appearance has been approved by the arbitrator, the arbitrators or the arbitral forum.

(b) [The State Bar Out-of-State Attorney Arbitration Counsel Program] The State Bar of California shall establish and administer a program to implement

the State Bar of California's responsibilities under Code of Civil Procedure section 1282.4. The State Bar of California's program shall be operative only as long as the applicable provisions of Code of Civil Procedure section 1282.4 remain in effect.

(c) [Eligibility to appear as an Out-of-State Attorney Arbitration Counsel] To be eligible to appear as an Out-of-State Attorney Arbitration Counsel, an attorney must comply with all of the applicable provisions of Code of Civil Procedure section 1282.4 and the requirements of this rule and the rules and regulations adopted by the State Bar of California pursuant to this rule.

(d) [Discipline] An attorney who files a certificate containing false information or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar or California shall be subject to the disciplinary jurisdiction of the State Bar with respect to any of his or her acts occurring in the course of the arbitration.

(e) [Disqualification] Failure to timely file a certificate or, absent special circumstances, appearances in multiple separate arbitration matters shall be grounds for disqualification from serving in the arbitration in which the certificate was filed.

(f) [Fee] Out-of-State Attorney Arbitration Counsel shall pay a reasonable fee not exceeding $50 to the State Bar of California with the copy of the certificate that is served upon the State Bar.

(g) [Inherent power of Supreme Court] Nothing in these rules shall be constructed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

Rule 983.4 adopted by the Supreme Court effective July 1, 1999.

Rule 983.5. California Rules of Court [Certifying Legal Specialists]

(a) [Definition] A "certified specialist" is a California attorney who holds a current certificate as a specialist issued by the State Bar of California Board of Legal Specialization or any other entity approved by the State Bar to designate specialists.

(b) [State Bar Legal Specialization Program] The State Bar shall establish and administer a program for certifying legal specialists and may establish a

program for certifying entities that certify legal specialists under rules adopted by the Board of Governors of the State Bar.

(c) [Authority to practice law] No lawyer shall be required to obtain certification as a certified specialist as a prerequisite to practicing law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in any field of law and to act as counsel in every type of case, even though he or she is not certified as a specialist.

(d) [Failure to comply with program] A Certified Specialist who fails to comply with the requirements of the Legal Specialization program of the State Bar, shall have her or his certification suspended or revoked under rules adopted by the Board of Governors of the State Bar.

(e) [Fee and penalty] The State Bar shall have the authority to set and collect appropriate fees and penalties for this program.

(f) [Inherent power of Supreme Court] Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

Rule 983.5 adopted effective January 1, 1996.

Rule 984. Periodic review of court interpreter skills and professional conduct

Each trial court shall establish a procedure for biennial, or more frequent, review of the performance and skills of each court interpreter certified pursuant to section 68560 et seq. of the Government Code. The court may designate a review panel which shall include at least one person qualified in the interpreter's language. The review procedure may include interviews, observations of courtroom performance, rating forms, and other evaluation techniques.

Rule 984 amended effective January 1, 1996; adopted effective July 1, 1979.

Rule 984.1. Guidelines for approval of certification programs for interpreters for deaf and hard-of-hearing persons

Each organization, agency, or educational institution administering tests for certification of court interpreters for deaf and hard-of-hearing persons pursuant to Evidence Code section 754 shall comply with the guidelines adopted by the Judicial Council effective February 21, 1992, and any subsequent revisions, and shall hold a valid, current approval by the Judicial Council to administer the tests as a certifying

organization. The adopted guidelines are set forth in the *Judicial Council Guidelines for Approval of Certification Programs for Interpreters for Deaf and Hard-of-Hearing Persons*, published by the Administrative Office of the Courts.

Rule 984.1 as adopted effective January 1, 1994.

Drafter's Notes
1994—This rule implements Evidence Code section 754.

Rule 984.2. Appointment of noncertified interpreters in criminal and juvenile delinquency proceedings

(a) [Applicability] This rule applies to trial court proceedings in criminal cases and juvenile delinquency proceedings under Welfare and Institutions Code section 602 et seq. in which the court determines that an interpreter is required.

(b) [Appointment of noncertified interpreters] An interpreter who is not certified by the Judicial Council to interpret a language designated by the Judicial Council under Government Code section 68560 et seq. may be appointed under Government Code section 68561(c) in a proceeding if

(1) The presiding judge of the court, or other judicial officer designated by the presiding judge,

(i) finds the noncertified interpreter to be provisionally qualified following the Procedures and Guidelines to Appoint a Noncertified Interpreter in Criminal and Juvenile Delinquency Proceedings (form IN-100), and

(ii) signs an order allowing the interpreter to be considered for appointment (Qualifications of a Noncertified Interpreter (form IN-110)); and

(2) The judge in the proceeding finds on the record that good cause exists to appoint the noncertified interpreter and that the interpreter is qualified to interpret the proceeding, following procedures adopted by the Judicial Council (see forms IN-100, IN-110, and IN-120); except

(3) To prevent burdensome delay or in other unusual circumstances, at the request of the defendant, or the minor in a juvenile delinquency proceeding, the judge in the proceeding may appoint a noncertified interpreter who is not provisionally qualified under subdivision (b)(1) to interpret a brief, routine matter provided the judge, on the record

(i) indicates that the defendant or minor has waived the appointment of a certified interpreter and the appointment of an interpreter found provisionally qualified by the presiding judge,

(ii) finds that good cause exists to appoint an interpreter who is neither certified nor provisionally qualified, and

(iii) finds that the interpreter is qualified to interpret that proceeding.

The appointment shall not be extended to subsequent proceedings without an additional waiver, findings, and appointment.

Each order of the presiding judge under subdivision (b)(1) finding a noncertified interpreter to be provisionally qualified and allowing the interpreter to be considered for appointment in a proceeding shall be for a six-month period.

The findings and appointment under subdivision (b)(2) made by the judge in the proceeding shall be effective in that proceeding only.

(c) [Limit on appointment of noncertified interpreters] A noncertified interpreter allowed to be appointed under subdivision (b) shall not interpret in the trial courts for more than any four 6-month periods, except that:

(1) In counties with a population greater than 80,000, a noncertified interpreter of Spanish may be allowed to interpret for no more than any two 6-month periods.

(2) A noncertified interpreter may be allowed to interpret beyond four 6-month periods, or two 6-month periods for an interpreter of Spanish under subdivision (c)(1), if the judge in the proceeding makes a specific finding on the record in each case in which the interpreter is sworn that good cause exists to appoint the interpreter notwithstanding that he or she has failed to achieve Judicial Council certification.

Each six-month period begins on the date a presiding judge signs an order under subdivision (b)(1) allowing the noncertified interpreter to be considered for appointment. If an interpreter is provisionally qualified in more than one court at the same time, the six-month periods shall run concurrently for purposes of determining the maximum periods allowed in this subdivision.

(d) [Waiver of certified interpreter or objection to noncertified interpreter] If after a diligent search a certified interpreter is not available, the judge in the proceeding shall inform the defendant, or the minor in a juvenile delinquency proceeding, that

(1) the proposed interpreter is not certified,

(2) the court has found good cause to appoint a noncertified interpreter, and

(3) the court has found the proposed interpreter to be qualified to interpret in the proceeding.

If the defendant or minor then objects to the appointment of the proposed interpreter or waives the appointment of a certified interpreter, the objection or waiver shall be on the record.

(e) [Court record] The minute order or docket shall record the following information for each proceeding requiring the appointment of an interpreter:

(1) *(Certified interpreters)* For each certified interpreter, record:

(i) The name of the interpreter.

(ii) The language to be interpreted.

(iii) The fact that the interpreter is certified to interpret in the language to be interpreted.

(iv) Whether the interpreter was administered the interpreter's oath or has an oath on file with the court (only certified interpreters may have an oath on file).

(2) *(Noncertified interpreters)* For each noncertified interpreter, record:

(i) The name of the interpreter.

(ii) The language to be interpreted.

(iii) The fact that the interpreter was administered the interpreter's oath.

(iv) The fact that the interpreter is not certified to interpret in the language to be interpreted.

(v) Whether a Certification of Unavailability of Certified Interpreters (form IN-120) for the language to be interpreted is on file for this date with the court administrator.

(vi) The court's finding that good cause exists for the court to appoint a noncertified interpreter.

(vii) The court's finding that the interpreter is qualified to interpret in the proceeding.

(viii) If applicable, the court's finding under subdivision (c)(2) that good cause exists for the court to appoint a noncertified interpreter beyond the time allowed in subdivision (c).

(ix) If applicable, the objection or waiver of the defendant or minor under subdivision (d).

Rule 984.2 adopted effective January 1, 1996.

Drafter's Notes

1996—This [rule] applies to trial court proceedings in criminal and juvenile delinquency proceedings under Welfare and Institutions Code section 602 et seq. in which the court determines that an interpreter is required. It outlines procedures for the (1) rule's applicability, (2) appointment of noncertified interpreters, (3) limit on appointment of noncertified interpreters, (4) waiver of certified interpreter or objection to appointment of noncertified interpreters, and (5) specific information to be recorded on the court record.

Rule 984.3. Reports on appointments of certified and registered interpreters and noncertified and nonregistered interpreters in courts

Each superior court must report to the Judicial Council on:

(1) the appointment of certified and registered interpreters under Government Code section 71802, as required by the Administrative Office of the Courts; and

(2) the appointment of noncertified interpreters of languages designated under Government Code section 68562(a), and registered and nonregistered interpreters of nondesignated languages.

Rule 984.3 amended effective March 1, 2003; adopted January 1, 1996.

Drafter's Notes
1996—This new rule requires each trial court to report to the Judicial Council on the appointment of noncertified interpreters of languages designated under Government Code section 68652(a), and registered and nonregistered interpreters of nondesignated languages, as required by Forms INT-1 and INT-2 . . .

Rule 984.4. Professional conduct for interpreters

(a) [Representation of qualifications] An interpreter shall accurately and completely represent his or her certifications, training, and relevant experience.

(b) [Complete and accurate interpretation] An interpreter shall use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter shall interpret everything that is said during the entire proceedings. When interpreting for a witness, the interpreter shall interpret everything that is said during his or her testimony.

(c) [Impartiality and avoidance of conflicts of interest] An interpreter shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. An interpreter shall disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter shall constitute a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case. An interpreter shall not engage in conduct creating the appearance of bias, prejudice, or partiality. An interpreter shall not make statements about the merits of the case until the litigation has concluded.

(d) [Confidentiality] An interpreter shall not disclose privileged communications between counsel and client.

(e) [Giving legal advice] An interpreter shall not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

(f) [Professional relationships] An interpreter shall maintain an impartial, professional relationship with all court officers, attorneys, jurors, parties, and witnesses.

(g) [Continuing education and duty to the profession] An interpreter shall, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter shall seek to elevate the standards of performance of the interpreting profession.

(h) [Assessing and reporting impediments to performance] An interpreter shall assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the court or other appropriate authority.

(i) [Duty to report ethical violations] An interpreter shall report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.

Rule 984.4 adopted effective January 1, 1999.

Drafter's Notes
1999—The existing Standard of Judicial Administration, section 18.3 , which recommended standards of professional conduct for court interpreters, was repealed, and new rule 984.4 was adopted. The rule establishes mandatory standards of professional responsibility for interpreters. This provides a basis and legal authority for a discipline process for certified court interpreters, which will be developed.

Rule 985. Permission to proceed without paying court fees and costs (in forma pauperis)

(a) [Application] An application to proceed in forma pauperis shall be made on Judicial Council form 982(a)(17). An application for waiver of additional court fees and costs under subdivision (j) shall be made on form 982(a)(20). The clerk shall provide the form without charge to any person who requests it or indicates that he or she is unable to pay any court fee or cost. No applicant shall be required to complete any form as part of his or her application under this rule other than forms adopted by the Judicial Council, except as authorized by subdivision (e)(1) of Government Code section 68511.3. Upon the receipt of an application, the clerk shall immediately file the application and any pleading or other paper presented by the applicant.

(Subd (a) amended effective January 1, 2001; previously amended effective July 1, 1982, and January 1, 1983.)

(b) [Eligibility] An application to proceed in forma pauperis shall be granted and payment of court fees and costs listed in subdivision (i) shall be waived if the applicant meets the standards of eligibility established by subdivision (a)(6)(A) or (a)(6)(B) of Government Code section 68511.3. An application shall be granted and payment of those court fees and costs listed in subdivision (j) that the court finds necessary shall be waived if the applicant meets the standards of eligibility established by subdivision (a)(6)(A) or (a)(6)(B) of Government Code section 68511.3. Any other order granting the application under that section or otherwise may waive payment of part or all of the fees and costs and may provide that a lien exists on any money recovered by the applicant for any waived fees and costs, which shall be deemed to be taxable costs.

The court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition. As part of the reasonable efforts to verify a litigant's financial condition, the court, the clerk of the court, the county financial officer, or another appropriate county officer may not require that all applicants submit documentation to support the information set forth in the application, except as authorized by subdivisions (b)(1) and (e)(1) of Government Code section 68511.3. Additional documentation of a litigant's financial condition shall be required only if the applicant failed to provide the information required by the application form or if the court has good reason to doubt the truthfulness of the factual allegations in the application. If the litigant is required to submit additional documentation of his or her financial condition, the court or an authorized clerk of the court, the county financial officer, or another appropriate county officer shall:

(1) Inform the litigant of the information in the application that is insufficient or that the court believes may not be truthful;

(2) Inform the litigant of the specific type or types of documentation the litigant is required to submit;

(3) Require the litigant to submit only such documentation as the litigant has in his or her possession or that the litigant can obtain with reasonable efforts; and

(4) Require the litigant to submit only such documentation as will clarify or prove the truthfulness of the factual allegations in the application.

(Subd (b) amended effective January 1, 2001; previously amended effective July 1, 1981, January 1, 1983, and January 1, 1987.)

(c) [Pleading or paper submitted for filing] The application shall be determined without regard to the applicant's pleading or other paper filed, if any. If the application is denied, any paper filed without payment of fees is ineffective unless the fees are paid within ten days after notice is given by the clerk pursuant to subdivision (d). If the fees are paid after ten days, the date the applicant's pleading or other paper was originally presented to the clerk is the date for determining whether the action or proceeding was commenced within the period provided by law.

(d) [Procedure for determining application] The court shall consider and determine the application in accordance with Government Code section 68511.3. An order determining an application for in forma pauperis status shall be made on form 982(a)(18). An order denying the application, in whole or in part, shall include a statement of reasons as required by Government Code section 68511.3. The clerk shall forthwith mail or deliver a copy of the order to the attorney for the applicant or, if no attorney, to the applicant if the application is not granted in full and, if the application is denied, to each other party who has appeared in the action or proceeding.

The court may delegate to the clerk in writing the authority to grant applications that meet the standards of eligibility established by subdivision (a)(6)(A) or (a)(6)(B) of section 68511.3 of the Government Code. The court may not delegate authority to deny an application.

(Subd (d) amended effective January 1, 2001; adopted effective January 1, 1985; previously amended effective July 1, 1985, January 1, 1986, and January 1, 1987.)

(e) [Application granted after five court days] The application is granted within five court days after it is filed unless acted upon by the court during that time. If the application is granted by operation of this subdivision, the clerk shall execute a Notice of Waiver of Court Fees and Costs on form 982(a)(19).

(Subd (e) amended January 1, 2001; previously amended effective July 1, 1981.)

(f) [Hearing] If the court determines within five court days after the application is filed that there is substantial evidentiary conflict concerning the applicant's eligibility for in forma pauperis status, the clerk shall promptly give the applicant no less than ten days' written notice of a hearing. To ensure confidentiality of the applicant's financial information the hearing shall be held in private and the court shall exclude all persons except court attachés, the applicant, those present with the applicant's consent, and any witness being examined.

(Subd (f) amended effective January 1, 2001.)

(g) [Changed circumstances; duty to notify court] A person who has been granted in forma pauperis status shall promptly notify the court of any changed financial circumstances affecting his or her ability to pay court fees and costs. The court shall not reconsider that person's eligibility prior to the final determination of the case except in connection with an application for waiver of additional court fees and costs under subdivision (j) of this rule or in accordance with subdivision (d) of Government Code section 68511.3. The court may authorize the clerk of the court, the county financial officer, or another appropriate county officer to determine whether the litigant's financial condition has changed, enabling the litigant to pay all or a portion of the fees and costs that were waived, under the following procedures:

(1) The authorized officer shall notify the litigant personally or in writing that the litigant must complete a new application to proceed in forma pauperis and file it with the clerk.

(2) The notice shall be accompanied by a blank application form prescribed by rule 982(a).

(3) No litigant shall be required to submit a new completed application form more frequently than once every four months.

(4) The authorized officer shall review the new application. If he or she determines that the litigant's financial condition has changed, the court may order the litigant to pay such sum and in such manner as the court believes is compatible with the litigant's financial ability.

(Subd (g) amended effective January 1, 2001; previously amended effective January 1, 1983.)

(h) [Confidentiality] No person shall have access to the application except the court and authorized attachés, persons authorized to verify the information pursuant to subdivision (b) and Government Code section 68511.3, and any person authorized by the applicant. No person shall reveal any information contained in the application except as authorized by law.

(Subd (h) amended effective January 1, 2001; adopted effective July 1, 1981; previously amended effective January 1, 1983.)

(i) [Court fees and costs waived by initial application] Court fees and costs waived upon granting an application to proceed in forma pauperis include, but are not limited to, the following:

(1) Clerk's fees for filing papers;

(2) Clerk's fees for reasonably necessary certification and copying;

(3) Clerk's fees for issuance of process and certificates;

(4) Clerk's fees for transmittal of papers;

(5) Court-appointed interpreter's fees for parties in small claims actions;

(6) Sheriff's, marshal's, and constable's fees pursuant to article 7 of title 3 of division 2 of the Government Code;

(7) Reporter's fees for attendance at hearings and trials held within 60 days of the date of the order granting the application;

(8) The fee for a telephone appearance pursuant to Government Code section 68070.1(c);

(9) Clerk's fees for preparing, certifying, and transmitting the clerk's transcript on appeal. A litigant proceeding in forma pauperis shall specify with particularity the documents to be included in the clerk's transcript on appeal.

(Subd (i) amended effective January 1, 2001; previously amended effective July 1, 1989, and January 1, 1995.)

(j) [Additional court fees and costs waived] The court fees and costs that may be waived upon application include:

(1) Jury fees and expenses;

(2) Court-appointed interpreter's fees for witnesses;

(3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;

(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date of the order granting the application;

(5) Witness fees of court-appointed experts;

(6) Other fees or expenses as itemized in the application.

(Subd (i) amended effective January 1, 2001.)

(k) [Posting notice] Each trial court shall post in a conspicuous place near the filing window or counter a notice, $8^1/_2$ by 11 inches or larger, advising litigants in English and Spanish that they may ask the court to waive court fees and costs. The notice shall be substantially as follows: "NOTICE: If you are unable to pay fees and costs, ask the court to permit you to proceed without paying them. Ask the clerk for the Information Sheet on Waiver of Court Fees and Costs and the Application for Waiver of Court Fees and Costs."

(Subd (k) adopted effective July 1, 1986.)

Rule 985 amended effective January 1, 2001; previously amended effective July 1, 1981, July 1, 1982, January 1, 1983, January 1, 1985, July 1, 1985, January 1, 1986, July 1, 1986, January 1, 1987, July 1, 1989, and January 1, 1995; adopted effective January 1, 1981.

Drafter's Notes

1983—Responding to legislation (Stats. 1982, ch. 1221) changing the in forma pauperis procedure, the Judicial Council amended rule 985 to (a) permit a court to authorize the clerk or appropriate county officer to make reasonable efforts to verify the litigant's financial condition; (b) maintain confidentiality of information on the litigant's financial condition; and (c) repeal the provision authorizing destruction of applications two years after their filing. Rule 985(a) was amended to provide that the court clerk may destroy an application for waiver of court fees and costs two years after it was filed.

1987—The Judicial Council amended rule 985 on waiver of court fees and costs to permit the presiding judge to delegate to the court clerk the power to approve an application. The delegation to the clerk is only allowed for those cases where approval is nondiscretionary. The judge must still act on applications where the statutes allow for the exercise of discretion. The clerk may not be delegated the authority to deny an application.

1989—Rule 985 was amended to include the telephone appearance fee in the list of fees waived by an order granting leave to proceed in forma pauperis.

1995—On the recommendation of the Appellate Standing Advisory Committee, the council:

. . . (4) amended rule 985 to make clerk's transcripts on appeal available without cost to litigants proceeding in forma pauperis, but requiring the in forma pauperis litigant to specify with particularity the documents to be included in the transcript; . . .

2001—As amended, rule 985 allows the court to require the litigant to submit documentation in addition to Judicial Council Form 982(a)(17), *Application for Waiver of Court Fees and Costs,* only if the court has insufficient information to act on the application or has reason to doubt the truthfulness of the factual allegations in the application. The court may also determine whether financial circumstances have changed for a litigant who has been granted permission to proceed in forma pauperis by requiring the litigant to file a new application, but only after personal notice is given or written notice is sent to the litigant, accompanied by a blank Form 982(a)(17).

Rule 986. Notice of renewal of judgment

A copy of the application for renewal of judgment shall be attached to the notice of renewal of judgment required by section 683.160 of the Code of Civil Procedure.

Rule 986 adopted effective July 1, 1983.

Drafter's Notes

1983—In response to legislation affecting the enforcement of judgment law (Stats. 1982, ch. 1198 and 1364), effective July 1, 1983, the Judicial Council approved over 40 new and revised forms for use in wage garnishment, attachment, execution, and other methods of enforcement of judgment. In doing so, the council made conforming amendments to rules 982 and 982.5. The council added a new rule 982.6 to permit levying officers to use existing supplies of their wage garnishment forms for three months. The council also added rule 986 to require service of the application for renewal of judgment with the notice of renewal of judgment required by CCP §683.160.

Rule 987. Holiday falling on a Saturday or Sunday

When a judicial holiday specified by Code of Civil Procedure section 135 falls on a Sunday, the courts shall observe the holiday on the following Monday. When a judicial holiday specified by Code of Civil Procedure section 135 falls on a Saturday, the courts shall observe the holiday on the preceding Friday.

Rule 987 adopted effective January 1, 1986, operative January 1, 1989.

Drafter's Notes

1985—New rule 987 responds to an amendment to Code of Civil Procedure section 135, operative January 1, 1989, which states that the courts shall be closed only on specified holidays. Amended section 135 provides that judicial holidays are the full-day holidays designated in Government Code section 6700. The council will propose legislation to amend section 135 to provide that every Saturday and the day after Thanksgiving are judicial holidays and that Admission Day (September 9) is not a holiday. This action is being taken to conform the statute more nearly to current practice.

Rule 988. Registered foreign legal consultant

(a) [Definition] A "Registered Foreign Legal Consultant" is a person who

(1) is admitted to practice and is in good standing as an attorney or counselor at law or the equivalent in a foreign country; and

(2) has a currently effective Certificate of Registration as a Registered Foreign Legal Consultant from the State Bar.

(b) [State Bar Registered Foreign Legal Consultant program] The State Bar shall establish and administer a program for registering foreign attorneys or counselors at law or the equivalent under rules adopted by the Board of Governors of the State Bar.

(c) [Eligibility for certification] To be eligible to become a Registered Foreign Legal Consultant, an applicant must:

(1) Present satisfactory proof that the applicant has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country for at least four of the six years immediately preceding the application, and while so admitted, has actually practiced the law of that country;

(2) Present satisfactory proof that the applicant possesses the good moral character requisite for a person to be licensed as a member of the State Bar of California;

(3) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to security for claims against a Foreign Legal Consultant by his or her clients;

(4) Agree to comply with the provisions of the rules adopted by the Board of Governors of the State Bar relating to maintaining an address of record for State Bar purposes;

(5) Agree to notify the State Bar of any change in his or her status in any jurisdiction where he or she is admitted to practice or of any discipline with respect to such admission;

(6) Agree to be subject to the jurisdiction of the courts of this state with respect to the laws of the State of California governing the conduct of attorneys, to the same extent as a member of the State Bar of California;

(7) Agree to become familiar with and comply with the standards of professional conduct required of members of the State Bar of California;

(8) Agree to be subject to the disciplinary jurisdiction of the State Bar of California;

(9) Agree to be subject to the rights and obligations with respect to attorney client privilege, work-product privilege, and other professional privileges, to the same extent as attorneys admitted to practice law in California; and

(10) Agree to comply with the laws of the State of California, the Rules and Regulations of the State Bar of California, and these Rules.

(d) [Authority to practice law] Subject to all applicable rules, regulations, and statutes, a Registered Foreign Legal Consultant may render legal services in California, except that he or she may not:

(1) Appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state or prepare pleadings or any other papers or issue subpoenas in any action or proceeding brought in any court or before any judicial officer;

(2) Prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States;

(3) Prepare any will or trust instrument affecting the disposition on death of any property located in the United States and owned by a resident or any instrument relating to the administration of a decedent's estate in the United States;

(4) Prepare any instrument in respect of the marital relations, rights or duties of a resident of the United States, or the custody or care of the children of a resident; or

(5) Otherwise render professional legal advice on the law of the State of California, any other state of the United States, the District of Columbia, the United States, or of any jurisdiction other than the jurisdiction(s) named in satisfying the requirements of subdivision (c) of this rule, whether rendered incident to preparation of legal instruments or otherwise.

(e) [Failure to comply with program] A Registered Foreign Legal Consultant who fails to comply with the requirements of the Registered Foreign Legal Consultant program of the State Bar shall have her or his certification suspended or revoked under rules adopted by the Board of Governors of the State Bar.

(f) [Fee and penalty] The State Bar shall have the authority to set and collect appropriate fees and penalties for this program.

(g) [Inherent power of Supreme Court] Nothing in these rules shall be construed as affecting the power of the Supreme Court to exercise its inherent jurisdiction over the practice of law in California.

Rule 988 adopted effective December 1, 1993.

Former Rule
Former rule 988, similar to the present rule, was adopted and amended by the Supreme Court effective April 2, 1987, and repealed effective December 1, 1993.

Rule 989. Use of gender-neutral language

(a) [Local rules, forms, documents] Each court shall use gender-neutral language in all new local rules, forms, and documents and shall review and revise those now in use to ensure that they are written in gender-neutral language.

(Subd (a) adopted effective January 1, 1991.)

(b) [Jury instructions] All instructions submitted to the jury shall be written in gender-neutral language. If standard jury instructions (CALJIC and BAJI) are to be submitted to the jury, the court or, at the court's request, counsel shall recast the instructions as necessary to ensure that gender-neutral language is used in each instruction. Effective January 1, 1992, all standard jury instructions (CALJIC and BAJI) shall be written in gender-neutral language.

(Subd (b) adopted effective January 1, 1991.)

Rule 989 adopted effective January 1, 1991.

Rule 989.1. Use of recycled paper by all courts

Effective January 1, 1995, all courts shall use recycled paper for all purposes except for (1) uses for which recycled paper is not practically available, and (2) exhaustion of stocks of nonrecycled paper purchased prior to January 1, 1994.

Rule 989.1 as adopted effective January 1, 1994.

Drafter's Notes
1994—New and amended California Rules of Court (new rules 989.1, 1071.5; amended rules 9, 40, 44, 201, 501) require the use of recycled paper for original papers filed in California courts after January 1, 1995, and for copies after January 1, 1996. The rules provide that an attorney, by the act of filing the document, certifies that recycled paper was used.

Rule 989.2. Nondiscrimination in court appointments

It shall be the policy of each court to select attorneys, arbitrators, mediators, referees, masters, receivers, and other persons appointed by the court on the basis of merit. No court shall discriminate in such selection on the basis of gender, race, ethnicity, disability, sexual orientation, or age.

Rule 989.2 adopted effective January 1, 1999.

Drafter's Notes
1999—New rule 989.2 prohibits discrimination in the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and others appointed by the court. The standards recommend (1) that courts establish recruitment procedures for court appointments, including publicizing vacancies at least once a year; and (2) that courts selecting members to serve on committees establish a procedure to ensure that all qualified persons have equal access to the selection process.

Rule 989.3. Requests for accommodations by persons with disabilities

(a) [Policy] It shall be the policy of the courts of this state to assure that qualified individuals with disabilities have equal and full access to the judicial system. Nothing in this rule shall be construed to impose limitations or to invalidate the remedies, rights, and procedures accorded to any qualified individuals with disabilities under state or federal law.

(b) [Definitions] The following definitions shall apply under this rule:

(1) "Qualified individuals with disabilities" means persons covered by the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Civil Code section 51 et seq.; and other related state and federal laws; and includes individuals who have a physical or mental impairment that substantially limits one or more of the major life activities; have a record of such an impairment; or are regarded as having such an impairment.

(2) “Applicant” means any lawyer, party, witness, juror, or any other individual with an interest in attending any proceeding before any court of this state.

(3) “Accommodations(s)” may include, but are not limited to, making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to the qualified individuals with disabilities, auxiliary aids and services, which are not limited to equipment, devices, materials in alternative formats, and qualified interpreters or readers; and making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by qualified individuals with disabilities requesting accommodations. While not requiring that each existing facility be accessible, this standard, known as “program accessibility,” must be provided by methods including alteration of existing facilities, acquisition or construction of additional facilities, relocation of a service or program to an accessible facility, or provision of services at alternate sites.

(4) The “rule” means this rule regarding requests for accommodations in state courts by qualified individuals with disabilities.

(5) “Confidentiality” applies to the identity of the applicant in all oral or written communications, including all files and documents submitted by an applicant as part of the application process.

(c) [Process] The following process for requesting accommodations is established:

(1) Applications requesting accommodations(s) pursuant to this rule may be presented ex parte in writing, on a form approved by the Judicial Council and provided by the court, or orally as the court may allow. Applications should be made at the designated Office of the Clerk, or to the courtroom clerk or judicial assistant where the proceeding will take place, or to the judicial officer who will preside over the proceeding.

(2) All applications for accommodations shall include a description of the accommodation sought, along with a statement of the impairment that necessitates such accommodation. The court, in its discretion, may require the applicant to provide additional information about the qualifying impairment.

(3) Applications should be made as far in advance of the requested accommodations implementation date as possible, and in any event should be made no less than five court days prior to the requested implementation date. The court may, in its discretion, waive this requirement.

(4) Upon request, the court shall place under seal the identity of the applicant as designated on the application form and all other identifying information provided to the court pursuant to the application.

(d) [Permitted communication] An applicant may make ex parte communications with the court; such communications shall deal only with the accommodations(s) the applicant's disability requires and shall not deal in any manner with the subject matter or merits of the proceedings before the court.

(e) [Grant of accommodation] A court shall grant an accommodation as follows:

(1) In determining whether to grant an accommodation and what accommodation to grant, the court shall consider, but is not limited by, the provisions of the Americans with Disabilities Act of 1990 and related state and federal laws.

(2) The court shall inform the applicant in writing of findings of fact and orders, as may be appropriate, that the request for accommodations is granted or denied, in whole or in part, and the nature of the accommodations(s) to be provided, if any.

(f) [Denial of accommodation] An application may be denied only if the court finds that:

(1) The applicant has failed to satisfy the requirements of this rule; or

(2) The requested accommodations(s) would create an undue financial or administrative burden on the court; or

(3) The requested accommodations(s) would fundamentally alter the nature of the service, program, or activity.

(g) [Review procedure]

(1) An applicant or any participant in the proceeding in which an accommodation has been denied or granted may seek review of a

determination made by nonjudicial court personnel within 10 days of the date of the notice of denial or grant by submitting a request for review to the judicial officer who will preside over the proceeding or to the presiding judge if the matter has not been assigned.

(2) An applicant or any participant in the proceeding in which an accommodation has been denied or granted may seek review of a determination made by a presiding judge or any other judicial officer of a court within 10 days of the date of the notice of denial or grant by filing a petition for extraordinary relief in a court of superior jurisdiction.

(h) [Duration of accommodations] The accommodations by the court shall commence on the date indicated in the notice of accommodation and shall remain in effect for the period specified in the notice of accommodation. The court may grant accommodations for indefinite periods of time or for a particular matter or appearance.

Rule 989.3 adopted effective January 1, 1996.

Drafter's Notes
1996—The council adopted this new rule to help implement the Americans with Disabilities Act, which requires public entities, including the courts, to make reasonable modifications in policies, practices, or procedures to avoid discrimination against persons with disabilities. Public entities are also required to ensure that equally effective communication exists between the entity and persons with disabilities as between the entity and persons without disabilities. The public entity, however, is not required to make any modifications nor take any action that would fundamentally alter the service, activity, or program, or result in undue financial and administrative burdens.

Rule 989.5. Smoking policy for trial and appellate courts

(a) [Definition] "Court facilities" means courthouses and all areas of multipurpose buildings used for court operations.

(Subd (a) adopted effective July 1, 1991.)

(b) [Smoking prohibited] Smoking shall be prohibited in all court facilities.

(Subd (b) adopted effective July 1, 1991.)

(c) [Signs] Conspicuous no-smoking signs shall be placed in all court facilities.

(Subd (c) adopted effective July 1, 1991.)

Rule 989.5 adopted effective July 1, 1991.

Drafter's Notes
1991—The council adopted new rule 989.5 of the California Rules of Court to prohibit smoking in all trial and appellate court facilities, and repealed rule 847 and section 17 of the Standards of Judicial Administration.

Rule 989.7. Acceptance of gifts

The Chief Justice or the Chief Justice's designee may accept on behalf of any agency provided for in article VI of the Constitution any gift of real or personal property if the gift and any terms and conditions are found to be in the best interest of the State. Any applicable standards used by the Director of Finance under Government Code section 11005.1 may be considered in accepting gifts.

Rule 989.7 adopted effective September 13, 1991.

Rule 990. [Renumbered 1993]

Rule 990 renumbered rule 1070 effective July 1, 1993; adopted November 23, 1970.

DIVISION IV-A. Coordination of Trial Courts

Adopted effective January 25, 1995.

Rule 991. Trial court coordination implementation
Rule 992. [Renumbered 1993]
Rule 995. [Renumbered 1993]

Rule 991. Trial court coordination implementation

(a) [Trial court coordination planning committees] By July 1, 1995, the trial courts within each county shall have created a trial court coordination planning committee with responsibility for planning court-coordinated activities. The coordination planning committee shall be responsible for preparing and submitting a single, county-wide coordination plan every two years, except as exempted by the Judicial Council, and for reporting on the progress of the implementation plan. By January 2, 1998, the trial court coordination planning committee shall have responsibility for governance of court-coordinated activities.

(Subd (a) amended effective December 1, 1995.)

(b) [Judicial coordination] By July 1, 1996, the trial courts within each county shall coordinate judicial activities in order to maximize the efficient use of all judicial resources within the county and enhance service to the public. At a minimum, judicial coordination activities within a county shall include, but not be limited to, the following elements:

(1) creation of a process to ascertain expertise and interest of all judges and subordinate judicial officers in particular case or court assignments;

(2) the training of judges and subordinate judicial officers in accordance with expressed interest and needs of the court in order to facilitate new case or court assignments;

(3) development of uniform, county-wide case-processing systems to enable maximum utilization of judicial officers; and

(4) factual use of all judges and subordinate judicial officers within a county in a manner that maximizes the utilization of judicial officers and is consistent with judicial expertise, interest, and training, and recognizes the caseloads of all courts within the county.

(c) [Administrative structure] By July 1, 1999, the trial courts within each county shall have a single executive officer with county-wide administrative responsibility who reports to a single presiding judge or oversight committee for all courts within the county; except the Judicial Council, or its designee, may approve an alternative administrative structure such as those specified in section 29(d)(2)(v)a, b, or c of the California Standards of Judicial Administration when it has been demonstrated to the Judicial Council that this structure has been successful in achieving the goal and objectives of trial court coordination as set forth in section 29.

(d) [County-wide information systems] By September 1, 1996, the trial courts within each county shall develop a common plan for county-wide implementation of information and other technologies. By December 1, 1997, there shall be measurable progress towards county-wide implementation, and by December 1, 1999, there shall be substantial operation of county-wide systems, subject to the availability of funding.

(e) [Uniform set of local rules] By July 1, 1998, the trial courts within each county shall adopt and implement a uniform set of local rules so that like proceedings can be litigated using the same rules in any court in the county.

(f) [County-wide integration of support services] By July 1, 1996, the trial courts within each county shall have adopted a coordination plan to provide for the integration of all direct court support services for all courts within the county, except as approved by the Judicial Council with respect to those services for which integration would substantially increase costs or reduce public access or would be contrary to existing agreements or memorandums of understanding. The plan shall give specific reasons for excluding particular services from integration.

Implementation of the plan shall be verified no later than February 1, 1997, according to a process determined by the Judicial Council. At a minimum, the following services shall be included within the integration plan:

(1) personnel records;

(2) payroll;

(3) training;

(4) fiscal services;

(5) collections;

(6) budget services;

(7) facility maintenance in counties where the court performs this function;

(8) facility planning;

(9) information services;

(10) classification of employees;

(11) records management;

(12) procurement;

(13) interpreter services;

(14) jury summoning;

(15) exhibits;

(16) court reporting;

(17) secretarial services;

(18) legal research; and

(19) security.

Rule 991 amended effective December 1, 1995; adopted effective January 25, 1995.

Former Rule
Former rule 991 was adopted November 23, 1970, and renumbered rule 1071 effective July 1, 1993.

Rule 992. [Renumbered 1993]

Rule 992 renumbered rule 1072 effective July 1, 1993; adopted November 23, 1970.

Rule 995. [Renumbered 1993]

Rule 995 renumbered rule 1006 effective July 1, 1993; adopted effective November 15, 1974.

DIVISION V. Rules Relating to Court Technology, Automation, and Information

Adopted, effective January 1, 1975, as Division VI. Heading amended and renumbered effective July 1, 1993. Former Division V, entitled "Rules Relating to the Administrative Director of the Courts and the Administrative Office of the Courts", consisting of rules 990-992, 995, 997, was renumbered to be Division V of Title Four.

Rule 996. Judicial Branch Statistical Information System (JBSIS)
Rule 997. [Repealed 1993]
Rule 999. [Renumbered 2001]
Rule 999.1. Trial court automation standards

Rule 996. Judicial Branch Statistical Information System (JBSIS)

(a) [Purpose of rule] Consistent with the California Constitution, article VI, section 6, and Government Code section 68505, the Judicial Branch Statistical Information System (JBSIS) is established by the Judicial Council to provide accurate, consistent, and timely information for the judicial branch, the Legislature, and other state agencies that require information from the courts to fulfill their mandates.

(b) [Reporting required] Each trial court shall collect and report to the Judicial Council information according to its capability and level of automation as prescribed by the *JBSIS Manual* adopted by the Judicial Council.

(c) [Automated JBSIS collection and reporting] By July 1, 1998, each trial court shall develop a plan for meeting reporting requirements prescribed by the *JBSIS Manual*. By January 1, 2001, subject to adequate funding being made available, each trial court shall develop, upgrade, replace, or procure automated case management systems needed to meet or exceed JBSIS data collection and reporting requirements prescribed by the *JBSIS Manual.*

(Subd (c) amended effective January 1, 2000; adopted effective January 1, 1998.)

Rule 996 amended effective January 1, 2000; adopted effective January 1, 1998.

Drafter's Note
1998—This rule was adopted to establish the JBSIS and to require courts to collect and report to the Judicial Council the information set forth in the *JBSIS Manual*, subject to the availability of adequate funding of case management systems, by January 1, 2000.

2000—Amended rule 996 extends the date by which courts will implement Judicial Branch Statistical Information System (JBSIS) data collection and reporting requirements to January 1, 2001.

Rule 997. [Repealed 1993]

Rule 997 repealed effective July 1, 1993; adopted effective January 21, 1977. See rules 1011(b)(6) and 1012.

Rule 999. [Renumbered 2001]

Rule 999 amended and renumbered rule 6.751 effective January 1, 2001; previously renumbered effective July 1, 1993; adopted as rule 1010 effective January 1, 1975.

Rule 999.1. Trial court automation standards

Each trial court that acquires, develops, enhances, or maintains automated accounting or case management systems through funding provided pursuant to Government Code section 68090.8 shall comply with the standards approved by the Judicial Council effective March 1, 1992, and any subsequent revisions. The approved standards are set forth in *Judicial Council Trial Court Automation Standards* published by the Administrative Office of the Courts.

Rule 999.1 as renumbered effective July 1, 1993; adopted as rule 1011 effective March 1, 1992.

DIVISION VI. Rules Relating to the Courts' Automation/Information Systems

Division VI, consisting of rules 1010, 1011, adopted effective January 1, 1975. Renumbered to be Division V effective July 1, 1993.

DIVISION VII. Trial Court Funding Rules

Division adopted effective July 1, 1992; repealed effective July 1, 1993.

Rule 1101. [Repealed 1993]
Rule 1102. [Repealed 1993]

Rule 1101. [Repealed 1993]

Rule 1101 repealed effective July 1, 1993; adopted effective July 1, 1992, operative date contingent. See rule 1026 in new title four, division III.

Rule 1102. [Repealed 1993]

Rule 1102 repealed effective July 1, 1993; adopted effective July 1, 1992. See rule 1026 in new title four, division III.